

**ORISSA ELECTRICITY REGULATORY COMMISSION  
(CONDUCT OF BUSINESS) REGULATIONS, 2004**

# THE ORISSA GAZETTE

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## ORISSA ELECTRICITY REGULATORY COMMISSION

### BHUBANESWAR

#### NOTIFICATION

Dated the 21<sup>st</sup> May 2004

No. **OERC-Eng. 95/2003**- In exercise of powers conferred by Section 181 of the Electricity Act, 2003 (36 of 2003) and Sub-Section (2) of Section 9 and Sub-Section (2)(a) of Section 54 of the Orissa Electricity Reform Act, 1995 the Orissa Electricity Regulatory Commission makes the following Regulations for conduct of its Proceedings and discharge of its functions:-

#### CHAPTER I

#### GENERAL

**1. Short title, commencement and interpretation:-**

- (1) These Regulations may be called the Orissa Electricity Regulatory Commission (Conduct of Business) Regulations, 2004.
- (2) These Regulations extend to the whole of the State of Orissa.
- (3) These Regulations shall come into force on the date of their publication in the Official Gazette.
- (4) The Orissa General Clauses Act, 1937 shall apply to the interpretation of these Regulations.

**2. Definitions**

- (1). In these Regulations, unless the context otherwise requires:
  - (a) '**Central Act**' or "**Act**" means the Electricity Act, 2003;
  - (b) '**Chairperson**' means the Chairperson of the Orissa Electricity Regulatory Commission;
  - (c) '**Commission**' means the Orissa Electricity Regulatory Commission;
  - (d) '**Member**' means a member of the Orissa Electricity Regulatory Commission;
  - (e) '**Officer**' means an Officer of the Commission;
  - (f) '**Petition**' shall mean and include all petitions, applications, complaints, appeals, replies, rejoinder and supplemental pleadings;

- (g) **'Proceedings'** shall mean proceedings of all nature that the Commission may decide to initiate or hold in the discharge of its functions under the Central Act or the State Act but any preliminary meeting or any action done by the Commission before such initiation shall not be a proceeding for the purposes of these Regulations;
- (h) **'Receiving Officer'** shall mean the officer designated by the Commission for receiving the Petition;
- (i) **'Secretary'** means the Secretary of the Orissa Electricity Regulatory Commission.
- (j) **'State Act'** means the Orissa Electricity Reform Act, 1995;
- (k) **'State Government'** means the Government of Orissa.

2.1 Words or expressions occurring in these Regulations and not defined herein above shall bear the same meaning as in the Central Act. Words and expressions used in these regulations but not defined either in these Regulations or in the Central Act but defined in the State Act shall have the meaning respectively assigned to them in the State Act.

### 3. **Commission's offices, office hours and sittings:-**

- (1) The place of the office(s) of the Commission may from time to time be decided by the Commission, by an order made in that behalf.
- (2) Unless otherwise directed, the headquarters and other offices of the Commission shall be open daily except on second Saturday of each month, Sundays and holidays notified by the State Government.
- (3) The headquarters and other offices of the Commission shall be open at such times as the Commission may direct.
- (4) Where the last day for doing of any act falls on a day on which the office of the Commission is closed and by reason thereof, the act cannot be done on that day, it may be done on the next day on which the office is open.
- (5) The Commission may hold sittings for hearing matters at the headquarters or at any other place on days and time to be decided by the Commission.

### 4. **Language of the Commission:-**

- (1) The proceedings of the Commission shall be conducted in English or Oriya.
- (2) No petition, documents or other matters contained in any language other than English or Oriya shall be accepted by the Commission unless the same is accompanied by a translation thereof in English or Oriya.
- (3) Any translation which is agreed to by the parties to the proceedings or which any of the parties may furnish with an authenticity certificate of the person, who had translated in to English or Oriya, may be accepted by the Commission in appropriate case as a true translation.

### 5. **Seal of the Commission:-**

- (1) There shall be a separate seal indicating that it is the seal of the Commission.

- (2) Every order, decision or communication made, notice issued or certified copy granted by the Commission shall be stamped with the seal of the Commission and shall be authenticated by the Secretary or any other Officer of the Commission designated for the purpose and duly authorized by the Commission in that behalf.

**6. Functions and Duties of the Secretary and Delegation of powers:-**

- (1) The Secretary shall exercise such functions as are assigned to him by these Regulations or otherwise by the Commission or the Chairperson.
- (2) In particular and without prejudice to the generality of the provision of the clause (1) above, the Secretary shall have the following functions, namely:
- (i) he shall receive or cause to receive all petitions, applications, other fillings or references pertaining to the Commission;
  - (ii) he shall prepare or cause to prepare the briefs and summaries of all such filings presented before the Commission ;
  - (iii) he shall assist the Commission in proceedings conducted by the Commission;
  - (iv) he shall authenticate the orders passed by the Commission;
  - (v) he shall ensure compliance of the orders passed by the Commission; and
  - (vi) He shall have the right to collect from the State Governments, the Central Government and their agencies, the State Electricity Boards or other offices, companies and firms or any other person as may be directed by the Commission, such information as may be considered useful for the purpose of efficient discharge of the functions of the Commission under the Central Act and the State Act.
- (3) The Secretary shall have the custody of the seal and records of the Commission.
- (4) The Secretary may, with the approval of the Commission, delegate to any other Officer of the Commission any function required by these Regulations or otherwise, to be exercised by the Secretary.
- (5) In the absence of the Secretary, such other Officer of the Commission, as may be nominated by the Chairperson, may exercise the functions of the Secretary.
- (6) The Commission shall always have the authority, either on an application made by any interested or affected party or suo motu, to review, revoke, revise, modify, amend, alter or otherwise change any order made or action taken by the Secretary or other Officers of the Commission, if the Commission considers it to be appropriate.
- (7) Subject to the provisions of Section 97 of the Act, the Commission may by general or special order delegate to its Officers such functions including functions to be exercised by the Secretary on terms and conditions the Commission may direct for the purpose.

(8) The terms and conditions of the services of the Secretary, Officers and Staff of the Commission shall be as per Orissa Electricity Regulatory Commission (Method of Recruitment and Conditions of Service) Regulations, 1997 notified by the Commission.

**7. Authorised representative to appear before Commission:-**

- (1) A person may appear himself or may authorise any other person to appear before the Commission and to act and plead on his behalf.
- (2) A person may authorise an advocate or a member of any statutory professional body holding a Certificate of practice as the Commission may from time to time direct to represent him and to act and plead on his behalf before the Commission.
- (3) The Commission may from time to time decide the terms and conditions subject to which a person may authorise any other person to represent him and to act and plead on his behalf and the type of authorisation to be provided to the Commission for the purpose.
- (4) Notwithstanding the above, the Commission may allow any consumer group or association or any persons duly authorized by such consumer group or association to appear in any proceeding before the Commission or in any meeting before the initiation of the proceedings as the Commission may consider it to be appropriate.

## **CHAPTER II GENERAL RULES CONCERNING THE PROCEEDINGS BEFORE THE COMMISSION**

**8. Proceedings before the Commission:-**

- (1) (a) The Commission may from time to time hold such proceedings as it may considers to be appropriate in the discharge of its functions under the Central Act and the State Act.  
 (b) Subject to the provisions of the Act, Rules and Regulations framed thereunder, the quorum for meeting of the Commission shall ordinarily be two but the Commission may determine by order in writing, the matters which can be heard by a single Member.  
 (c) The Commission may appoint by order in writing any of its Members as Adjudicating Officer under Section 143 of the Act or under Section 27 of the Energy Conservation Act, 2001.
- (2) The Commission may appoint an Officer or any other person whom the Commission considers it to be appropriate to participate and assist the Commission in the proceedings.
- (3) All matters which the Commission is required under the Central Act and the State Act to undertake and discharge through hearings shall be done through hearing in the manner specified under the said Acts and in these Regulations.
- (4) Except where the Commission may provide otherwise for reasons to be recorded in writing, all matters affecting the rights or interests of the licensee or any other person or class of persons

shall be undertaken and discharged through hearing in the manner specified in these Regulations.

- (5) The Commission may hold hearings in matters other than those specified in clauses (3) and (4) above if the Commission considers it to be appropriate.
- (6) The Commission may hold consultations with the parties or any one or more of them before deciding on the initiation of a proceeding in any matter.

**9. Initiation of Proceedings:-**

- (1) The Commission may initiate any proceeding suo motu or on a petition filed by any affected or interested person.
- (2) When the Commission initiates the proceedings it shall be by a notice issued by the Office of the Commission and the Commission may give such orders and directions as may be deemed necessary, for service of notices to the affected or interested parties and for the filing of replies and rejoinders in opposition or in support of the petition in such form as the Commission may direct.
- (3) The Commission may, if it considers appropriate, issue orders for advertisement of the petition inviting comments on the issues involved in the proceedings in such form as the Commission may direct.
- (4) While issuing the notice the Commission may, in suo motu proceedings and in other appropriate cases, designate an Officer of the Commission or any other person whom the Commission considers it to be appropriate to present the matter in the capacity of a petitioner in the case.

**10. Petitions before the Commission:-**

- (1) All petitions shall contain a clear and concise statement of the facts with material particulars, the relief sought, the applicable provisions of law and the basis for such relief.
- (2) All petitions to be filed before the Commission shall be type written, cyclostyled or printed neatly and legibly on white paper and every page shall be consecutively numbered. The petition shall be filed in six copies or such other number of copies if the Commission so directs and all such copies shall be complete in all respects. The Commission may in addition seek copies of the Petition to be filed in an electronic form, on such terms and conditions, as the Commission may direct.
- (3) The contents of the petition shall be divided appropriately into separate paragraphs, which shall be numbered serially.
- (4) The petition shall be accompanied by such documents, supporting data and statements, as are relevant to the matters in issue in the petition.
- (5) The fee if any fixed by the Commission shall be paid at the time of or before the presentation of the Petition.

**11. General headings:-**

The general heading in all petitions before the Commission and in all advertisements and notices shall be in the Form attached to these Regulations as **Appendix 1**.

**12. Affidavit in support:-**

- (1) The Petitions filed shall be verified by an affidavit and every such affidavit shall be in the Form attached to these Regulations as **Appendix 2**.
- (2) Every affidavit shall be drawn up in the first person and shall state the full name, age, occupation and address of the deponent and the capacity in which he is signing and shall be signed and sworn before a person lawfully authorized to take and receive affidavits.
- (3) Every affidavit shall clearly and separately indicate the statements which are true to the -
  - (i) knowledge of the deponent;
  - (ii) information received by the deponent; and
  - (iii) belief of the deponent.
- (4) Where any statement in affidavit is stated to be true to the information received by the deponent, the affidavit shall also disclose the source of the information and a statement that the deponent believes that information to be true.

**13. Presentation and scrutiny of the pleadings, etc.:-**

- (1) All petitions shall be presented in person or by any duly authorized agent to an officer designated for the purpose by the Commission (the Receiving Officer) at the headquarters of the Commission or at such other place or places as may be notified by the Commission from time to time and during the time notified. The petitions may also be sent by registered post with acknowledgment due to the Commission at the places mentioned above.
- (2) The vakalatnama in favour of the Advocate and, in the event the petitions are presented by the authorized agent or representative, the document authorizing the agent or representative shall be filed along with the petition.
- (3) The presentation and the receipt of the petition shall be duly entered in the register maintained for the purpose by the office of the Commission.
- (4) Upon the receipt of the petition, the Receiving Officer shall acknowledge the receipt by stamping and endorsing the date on which the petition has been presented and shall issue an acknowledgment with stamp and date to the person filing the petition. In case the petition is received by registered post the date on which the petition is actually received at the office of Commission shall be taken as date of the presentation of the petition.
- (5) The Receiving Officer may decline to accept any petition which is not in conformity with the provisions of the Central Act or the State Act or these Regulations or directions given by the Commission or is otherwise defective or which is presented otherwise than in accordance with these Regulations or directions of the Commission:

Provided however that no petition shall be refused for defect in the pleading or in its presentation, without giving an opportunity to the person filing the petition to rectify the defect within the time, which may be allowed for the purpose. The Receiving Officer shall advise in writing the person filing the petition of the defects in the petition filed and the time within which the defects be rectified.

- (6) A party aggrieved by any order of the Receiving Officer in regard to the presentation of the petition may request the matter to be placed before the Secretary of the Commission for appropriate orders.
- (7) The Chairperson or any Member as the Chairperson may designate for the purpose, shall be entitled at any time to call for the petition presented by the party and give such directions regarding the presentation and acceptance of the petition as he considers appropriate.
- (8) If on scrutiny, the petition is not refused or any order of refusal is modified by the Secretary or by the Chairperson or the Member of the Commission designated for the purpose, the petition shall be duly registered and given a number in the manner directed by the Commission.
- (9) As soon as the petition and all necessary documents are lodged and the defects and objections, if any, are removed and the petition has been scrutinized and numbered, the petition shall be placed before the Commission for admission.

Provided, however, that in the case of complaints of individual consumers, class of consumers or any consumer organizations, the Secretary of the Commission may refer the matter to the Forum for redressal of the grievances of the Consumers established for the purpose in terms of Section 42(5) of the Central Act and the regulations framed by the Commission under the said provisions.

- (10) The Commission may admit the petition for hearing without requiring the attendance of the party filing the petition. The Commission shall not pass an order refusing admission without giving the party concerned an opportunity of being heard. The Commission may, if it considers appropriate, issue notice to such person or persons, as it may desire to hear on the petition for admission.
- (11) If the Commission admits the petition, it may give such orders and directions as may be considered necessary, for service of notices to the respondent and other affected or interested parties and for the filing of replies and rejoinder in opposition or in support of the petition in such form as the Commission may direct.

**14. Service of notices and processes issued by the Commission:-**

- (1) Any notice or process to be issued by the Commission may be served by any one or more of the following modes as may be directed by the Commission:
  - (i) service by the party itself; or
  - (ii) by hand delivery through a messenger; or
  - (iii) by registered post with acknowledgment due; or



- (iv) by publication in newspaper in cases where the Commission is satisfied that it is not reasonably practicable to serve the notices, processes, etc. on any person in the manner mentioned above; or
  - (v) service through courier and such other mode of service as the Commission may decide from time to time.
- (2) Every notice or process required to be served on or delivered to any person may be sent to the person or his agent empowered to accept service at the address furnished by him for service or at the place where the person or his agent ordinarily resides or carries on business or personally works for gain.
  - (3) In the event any matter is pending before the Commission and the person to be served has authorized an agent or representative to appear for or represent him or her in the matter, such agent or representative shall be deemed to be duly empowered to take service of the notices and processes on behalf of the party concerned in all matters and the service on such agent or representative shall be taken as due service on the person to be served. It shall be the duty of such agent or representative to duly inform the person whom he represents of the service of the notices.
  - (4) Where a notice or process is served by a party to the proceedings either in person or through registered post, an affidavit of service shall be filed by such party with the Commission giving details of the proof of service.
  - (5) Where any petition is required to be published in newspapers it shall be done within such time as the Commission may direct and, unless otherwise directed by the Commission, such publication shall be made in one issue each of a daily newspaper in English language and in Oriya language having circulation in the area directed by the Commission.
  - (6) The Commission may also effect service or give directions for effecting service in any other manner it considers appropriate.
  - (7) The Commission shall be entitled to decide in each case the person(s) who shall bear the cost of such service and publication.
  - (8) Save as otherwise provided in the Central Act or in the State Act or in these Regulations and subject to any direction which the Commission or the Secretary or the Officer of the Commission designated for the purpose may issue, the Petitioner, the Applicant or any other person whom the Commission may make responsible, shall arrange for service of notices, summons, processes and for publication of notices and processes required to be served or published.
  - (9) In default of compliance with the requirements of these Regulations or directions of the Commission as regards the service of notices, summons or processes or the advertisement and publication thereof, the Commission may either dismiss the petition or give such other or further directions, as it thinks fit.

- (10) No service or publication required to be done shall be deemed invalid by reason of any defect in the name or description of a person provided that the Commission is satisfied that such service is in other respects sufficient.
- (11) No proceeding shall be invalidated by reason of any defect or irregularity in the service or publication unless the Commission, on an objection taken, is of the opinion that substantial injustice has been caused by such defect or irregularity or publication or there are otherwise sufficient reasons for doing so.

**15. Filing of reply, opposition, objections, etc.:-**

- (1) Each person to whom the notice of inquiry or the petition is issued (hereinafter called the "respondent") who intends to oppose or support the petition shall file the reply and the documents relied upon within such period and in such number of copies as may be directed by the Commission.
- (2) In the reply filed, the respondent shall specifically admit, deny or explain the facts stated in the notice of inquiry or the petition and may also state such additional facts as he considers necessary for a just decision of the case.
- (3) The reply shall be signed and verified and supported by affidavit in the same manner as in the case of the petition. The respondent shall also indicate whether he wish to participate in the proceedings and be orally heard.
- (4) The respondent shall serve a copy of the reply along with the documents duly attested to be true copies on the petitioner or his authorized representative and file proof of such service with the office of the Commission at the time of filing the reply.
- (5) Where the respondent states additional facts, the Commission may allow the petitioner to file a rejoinder to the reply filed by the respondent. The procedure mentioned above for filing of the reply shall apply mutatis mutandis to the filing of the rejoinder.
- (6) Every person who intends to file objection or comments in regard to a matter pending before the Commission, pursuant to the publication issued for the purpose (other than the persons to whom notices, processes, etc. have been issued calling for reply) shall deliver to the Receiving Officer the statement of the objection or comments with copies of the documents and evidence in support thereof within the time fixed for the purpose.
- (7) The Commission may permit such person or persons as it may consider to be appropriate to participate in the proceedings before the Commission, if on the report received from the Officer, the Commission considers that the participation of such person or persons will facilitate the proceedings and the decision in the mater.
- (8) Unless permitted by the Commission, the person filing objections or comments shall not be entitled to participate in the proceedings. However, the Commission shall take into account the

objections and comments filed after giving such opportunity to the parties in the proceedings to deal with the objections and suggestions.

**16. Hearing of the matter:-**

- (1) The Commission may determine the stage, the manner, the place, the date and the time of the hearing of the matter as the Commission consider to be appropriate, consistent with such specific timing requirements as are set forth in the Central Act or the applicable provisions of the State Act or otherwise the need to expeditiously decide the matter.
- (2) The Commission may decide the matter on the pleadings of the parties or may call the parties to produce evidence by way of affidavit or lead oral evidence in the matter.
- (3) If the Commission directs evidence of a party to be led by way of affidavit, the Commission may, as and when the Commission considers it to be necessary, grant an opportunity to the other party to cross-examine the deponent of the affidavit.
- (4) The Commission may, if considered necessary or expedient, direct that the evidence of any of the parties be recorded by an Officer or person designated for the purpose by the Commission.
- (5) The Commission may direct the parties to file written note of arguments or submissions in any proceeding before the Commission as the Commission considers it to be appropriate.

**17. Power of the Commission to call for information etc.:-**

- 1) The Commission may, at any time before passing orders on the matter, require the parties or any one or more of them or any other person whom the Commission considers appropriate, to produce such documentary or other material objects as evidence as the Commission may consider necessary for the purpose of enabling it to pass orders.
- 2) The Commission may direct the summoning of the witnesses, discovery and production of any document or other material objects producible in evidence, requisition any public record from any office, examination by an officer of the Commission the books, accounts or other documents or information in the custody or control of any person which the Commission considers relevant for the matter.
- 3) The Commission may, if it considers appropriate, allow any of the parties or others specified in clauses (1) or (2) above, to adduce such further documentary or other evidence in regard to evidence made available by any of the parties or other persons under the said clauses.
- 4) The Commission may, at any time, summon and enforce the attendance of any person and examine him on oath.
- 5) The Commission may receive evidence by way of affidavit.

**18. Reference of issues to others:-**

- (1). At any stage of the proceedings, the Commission shall be entitled to refer such issue or issues in the matter as it considers appropriate, to persons including, but not limited to, the officers and consultants of the Commission whom the Commission considers as qualified to give expert or specialized advice or opinion.
- (2). The Commission may nominate from time to time any person including, but not limited to, the Officers and consultants to visit any place or places for inspection and report on the existence or status of the place or any facilities therein.
- (3). The Commission, if it thinks fit, may direct the parties to appear before the persons designated in clauses (1) or (2) above to present their respective views on the issues or matters referred to.
- (4). The report or the opinion received from such person shall form a part of the record of the case and parties shall be given the copies of the report or opinion given by the person designated by the Commission. The parties shall be entitled to file their version either in support or in opposition to the report or the opinion.
- (5). The Commission shall duly take into account the report or the opinion given by the person and the replies filed by the parties while deciding the matter and if considered necessary, examine the person giving the report or the opinion:

Provided that the Commission shall not be bound by the report or the opinion given and shall be entitled to take such decision as it may consider to be appropriate.

**19. Procedure to be followed where any party does not appear:-**

- (1) If, on the date fixed for hearing or any other date to which such hearing may be adjourned, any party or his authorized agent or representative does not appear when the matter is called for hearing, the Commission may, in its discretion, either dismiss the petition for default when the petitioner or the person who moves the Commission for hearing is absent or proceed *exparte* to hear and decide the petition if the other party is absent.
- (2) Where a petition is dismissed for default or decided *exparte*, the person aggrieved may file an application *for restoration* within 30 days from the date of such dismissal or being proceeded *exparte*, as the case may be, for recall of the order passed, and the Commission may recall the order on such terms as it thinks fit, if the Commission is satisfied that there was sufficient cause for the non-appearance of the person when the petition was called on for hearing.

**20. Orders of the Commission:-**

- (1) The Commission shall pass orders on the petition and the Chairperson and the Members of the Commission, who heard the matter, shall sign the orders.
- (2) The reasons given by the Commission in support of the orders, including those by the dissenting member, if any, shall form a part of the order and shall be available for inspection and supply of copies in accordance with these Regulations.

- (3) The Commission shall have the powers to pass such interim orders in any proceeding, hearing or matter before the Commission, as the Commission may consider it to be appropriate.
- (4) All orders and decisions issued or communicated by the Commission shall be certified under the signature of the Secretary or an Officer empowered in this behalf by the Chairperson and bear the official seal of the Commission.
- (5) All final orders of the Commission shall be communicated to the parties in the proceeding under the signature of the Secretary or an Officer empowered in this behalf by the Chairperson or the Secretary.

**21. Inspection of records and supply of certified copies:-**

- (1) The records of every proceeding shall be open, as of right, to the inspection of the parties or their authorised representatives at any time either during the proceeding or after the orders are passed, subject to payment of fees and compliance with such other terms as the Commission may direct.
- (2) The records of every proceeding, except those parts which for reasons directed by the Commission to be confidential or privileged, shall be open to inspection by any person other than the parties to the petition either during the proceeding or after the orders have been passed, subject to such person complying with such terms as the Commission may direct from time to time including in regard to time, place and manner of inspection and payment of fees.
- (3) A person shall be entitled to obtain certified copies of the orders, decisions, directions and reasons in support thereof given by the Commission as well as the pleadings and papers and other parts of the records of the Commission to which he is entitled, subject to payment of fees and compliance with such other terms as the Commission may direct.

## **CHAPTER III**

### **ARBITRATION OF DISPUTES**

#### **22. Arbitration:-**

- (1) The arbitration of disputes which under the Central Act or the State Act are within the scope of the jurisdiction of the Commission may be commenced on an application made by any of the parties to the dispute.
- (2) The Commission shall issue notice to the concerned parties to show cause as to why the disputes between the parties should not be adjudicated and settled through arbitration.
- (3) The Commission may, after hearing the parties to whom notices have been issued and if satisfied that no reason or cause has been shown against the arbitration request, pass an order directing that the disputes be referred for adjudication and settlement through arbitration either by the Commission or by a person or persons to be nominated by the Commission.

#### **23. Nomination of Arbitrators:-**

- (1) If the Commission decides to refer the matter to arbitration by a person or persons other than the Commission, the reference shall be:
  - a) to a sole arbitrator if the parties to the dispute agree on the name of the sole arbitrator; or
  - b) if the parties are unable to agree on the name of the arbitrator, to a sole arbitrator to be designated by the Commission or to three persons as the Commission may direct taking into account the nature of the dispute and the value involved and, if the decision is to refer to three arbitrators, one to be nominated by each of the parties to the dispute and the third by the Commission:

Provided that if any of the parties fails to nominate the arbitrator or if any arbitrator nominated by the parties or the Commission, fails or neglects to act or continue as arbitrator, the Commission shall be entitled to nominate any other person in his place.
- (2) The Commission shall not nominate a person as arbitrator to whom any of the parties to the arbitration has a reasonable objection on grounds of possible bias or similar such reasons and the Commission considers the apprehension to be justified.

#### **24. Procedure for adjudication, settlement and passing of award:-**

- (1) In case the Commission acts as the arbitrator, the procedure to be followed shall be as far as possible the same as in the case of hearing before the Commission provided in Chapter II above.
- (2) In case the Commission nominates an arbitrator or arbitrators to adjudicate and settle the disputes, such arbitrator or arbitrators may follow such procedure as they may consider appropriate, consistent with the principles of natural justice and fair opportunity to be given to the parties to arbitration and shall follow specific directions issued by the Commission.

- (3) The arbitrator or arbitrators, as the case may be shall, after hearing the parties pass an award giving reasons for the decision on all issues arising for adjudication and forward the award with relevant documents to the Commission within such time as the Commission may direct.
- (4) The award made by the Commission or the arbitrators, as the case may be, shall be an award under the Arbitration and Conciliation Act, 1996.

**25. Cost of arbitration and proceedings:-**

The cost of the arbitration and proceedings before the Commission shall be borne by such parties and in such sums as the Commission may direct.

## **CHAPTER IV LICENCE**

**26. Application for licence:-**

- (1) Any person intending to engage in the business of Transmission, Distribution or Trading in electricity in the State of Orissa, shall apply to the Commission for the grant of appropriate license in the form and manner directed by the Commission and accompanied by such fees as may be prescribed for this purpose by the Government of Orissa in shape of cross demand draft/Banker's Cheque drawn in favour of the Commission.
- Provided that till such time the fees are prescribed by the Government, the application shall be accompanied by a fee as may be directed by the Commission.
- (2) The Commission may, if considered appropriate, advertise in newspapers or otherwise notify in such other appropriate manner as the Commission may decide, inviting applications for grant of licence.
- (3) The applications for Licence shall be made in accordance with the provision of the Central Act, the State Act and these Regulations and in the applicable form contained in **Appendix 3A, 3B and 3C** to these Regulations for Distribution, Transmission and Trading respectively and shall be supported by affidavit of the authorized person in the format as appended at **Appendix 2**.
- (4) Every application for a licence shall be signed by or on behalf of the applicant and addressed to such Officer as the Commission may designate in this behalf and it shall be accompanied by:
- (i) six copies or such number of copies as the Commission may direct of the proforma containing the specific terms and conditions which the applicant desires to be included in the Licence and the statement stating the exclusion desired of the general conditions specified by the Commission and justification thereof, with the name and address of the applicant and of his agent (if any) printed on the cover page of the proforma;
  - (ii) six copies or such number of copies as the Commission may direct each signed by the applicant, of maps of the proposed area of Transmission or Distribution on scale of not less than 1 cm. to 1 km. (1:1,00,000). If no such maps are available, of not less than that

of the largest scale ordinance maps available, or on such other scales as may be approved by the Commission.

- (iii) a statement describing any lands or assets, which the applicant proposes to acquire for the purpose of the licence and the means of such acquisition;
  - (iv) a copy of the business plan, with an approximate statement of the capital proposed to be expended in connection with the utility, the means of financing of such capital expenditure, the resultant efficiency improvements and such other particulars as the Commission may require;
  - (v) a copy of Memorandum and Articles of Association in the case of a company or the incorporation or registration documents in the case of other legal entities;
  - (vi) Annual Accounts or other similar documents as may be required; and
  - (vii) a receipt in acknowledgement of payment of the fee specified in that regard.
- (5) Any person intending to act as the Transmission Licensee shall, immediately on making the application, forward a copy of such application to the State Transmission Utility. The State Transmission Utility shall acknowledge the receipt of the application and within thirty days of the receipt of the said application send its recommendations, if any, to the Commission.

**27. Technical Requirements to Qualify as an Electricity Trader:-**

- (1)
  - (a) The applicant for trading licence shall have the technical capability and resources and capabilities adequate to manage the intended volume of intrastate trade.
  - (b) The Commission may from time to time by general or special order decide on the technical capabilities to be maintained by the Electricity Trader.
  - (c) The Applicant shall have at least one person with qualification in engineering and adequate experience in electricity industry to comply with the technical requirements for discharging the functions of the Electricity Trader.
- (2) The Electricity Trader shall maintain the technical capability and resources as directed by the Commission and provide the Commission with the details of any changes thereon and justify that the capability is adequately maintained to cater to the volume of trade undertaken by him.

**28. Financial Requirements to Qualify as an Electricity Trader:-**

- (1) The applicant shall declare to the Commission the maximum trading volume the applicant proposes to handle in a month and its future plans of trading during the initial three years.
- (2) The applicant shall maintain at all times the capital adequacy and net worth sufficient to cover the maximum trading volume over an average settlement period of 30 days (one month) worth of credit for the applicant as an electricity trader subject to the following minimum requirements:
  - (a) Trade up to 5 Million Units (MU) per month  
Net Worth Requirement = 0.25 crore



- (b) Trade greater than 5 Million Units (MU) and up to 10 MU per month,  
Net Worth Requirement =Rs.0.5 crore
- (c) Trade greater than 10 MU and up to 20 MU per month,  
Net Worth Requirement = Rs.1.0 crore
- (d) Trade greater than 20 MU and up to 30 MU per month,  
Net Worth Requirement = Rs.1.25 crore
- (e) Trade greater than 30 MU and up to 40 MU per month,  
Net Worth Requirement = Rs.1.5 crore
- (f) Trade greater than 40MU and up to 50 MU per month,  
Net Worth Requirement = Rs.1.75 crore
- (g) For trade greater than 50 MU per month, the trader shall maintain,  
Net Worth Requirement of 1.75 crore and additional Rs.0.25 crore for each 10 MU in  
addition to 50 MU.

**29. Exemption of Distribution Licensee:-**

Notwithstanding anything contained in Regulations 26 and 27, the Distribution Licensees under Section 14 of the Act entitled to undertake intra-state trading in electricity shall not be required to have the technical or financial requirements as specified in the above Regulations including the capital adequacy norm and the credit worthiness.

Provided that the Commission may under the proviso to Section 16 of the Act lay down General or Specific Conditions which such deemed licensee shall be required to comply to continue the activities of an electricity trader.

**30. Contents of Proforma**

The proforma referred to in Regulation 26 above shall contain the particulars contained in the application form in **Appendix 3A, 3B and 3C**, as the case may be, and specifically the following:

- (a) A short title descriptive of the proposed utility together with the address and description of the applicant, and if the applicant is a company, the names of all the directors of the company;
- (b) Type of licence applied for;
- (c) Location of the proposed area of operation;
- (d) A description of the proposed area of operation; and
- (e) The general conditions and also the specific conditions, if any, which the Commission has laid down for inclusion in the licenses of the nature applied with justification for any deviation sought for; and
- (f) Such other particulars as the Commission may direct.

**31. Conditions of Licence:-**

- (1) The General Conditions subject to which each of the categories of licence shall be issued are contained in **Appendix 4A, 4B and 4C** respectively and the application for licence shall incorporate the acceptance of such general conditions.
- (2) The Commission may decide the Specific Conditions subject to which licence shall be issued to the applicant.
- (3) Any person applying for Licence to undertake trading in electricity in the State of Orissa shall duly fulfill the conditions of technical requirement, capital adequacy requirement and credit worthiness and further shall agree to discharge such duties as may be directed by the Commission under Section 52 of the Central Act.
- (4) Any person intending to apply for license shall duly comply with the conditions and requirements laid down by the Commission.

**32. Acknowledgment of application:-**

On receipt of the application, the Receiving Officer shall note thereon the date of its receipt and shall send to the applicant an acknowledgment stating the date of receipt.

**33. Copies of maps and proforma for public inspection:-**

The applicant shall maintain at his own office and at such other place as may be directed by the Commission, the copies of the documents referred to in clause (4) of Regulation 26 above for public inspection and furnish to persons applying for them the copies of such documents at a price not exceeding the normal photocopying charges;

**34. Calling for additional information:-**

The Commission or the Secretary or any Officer designated for the purpose by the Commission may upon scrutiny of the application, require the applicant to furnish within a period to be directed, such additional information or particulars or documents as the Commission may consider to be necessary for the purpose of dealing with the application.

**35. Notifying the due filing of the application:-**

If the Commission finds the application to be complete and accompanied by the requisite information, particulars and documents and the applicant has complied with all the requirements for making the application and furnishing of information, particulars and documents, the Commission or the Secretary or the Officer designated for the purpose shall certify that the application is ready for being considered for grant of licence in accordance with applicable laws and communicate the same to the applicant.

**36. Publication of notice of application:-**

- (1) The applicant shall, within seven days from the date of admission and numbering of the application, publish a notice of the application in the form contained in **Appendix 5** in two local

daily news papers (one Oriya and one English) having wide circulation in applicant's area of business.

- (2) The publication shall be headed by a short title corresponding to that given in the application and shall give the addresses of the offices at which the documents copies of maps therein referred to may be inspected and the copies of documents be purchased and shall state that every local authority, utility or person, desirous of making any representation with reference to application to the Commission, may do so by letter addressed to such Officer as the Commission may designate in this behalf, within thirty days from the date of publication.
- (3) The applicant for grant of intra-state trading licence shall publish in two local dailies as stated in clause (1) above with the following particulars, namely:
  - (a) Name of the applicant in bold at the top clearly bringing out whether the applicant is a person i.e. an individual or a body corporate or association, partnership firm, private limited company or a public limited company incorporated under the Companies Act, 1956, giving full particulars of its office address and the registered office address in case of a Company incorporated under the Companies Act, 1956.
  - (b) A statement that the applicant has made an application for grant of licence in intra-state trading under Sub-Section (1) of Section 15 of the Act, to the Orissa Electricity Regulatory Commission.
  - (c) Share holding pattern, financial and technical strength and management profile of the applicant.
  - (d) Volume of power intended to be traded during the first year after grant of licence and the future plans for trading during the next 5 years.
  - (e) Details of past experience of the applicant or the persons on its management in same or similar activity.
  - (f) Geographical areas within which the applicant will undertake trading in electricity as stated in the application made to the Commission.
  - (g) A statement to the effect that the application and other documents filed before the Commission from time to time, are available for inspection with the applicant, by any person.
  - (h) Name and address and other relevant details of the person under the control of the applicant with whom the application and other documents can be inspected by any person.
  - (i) A statement to the effect that complete application is available in the website of the applicant. A statement that objections, if any, be filed before the Commission with a copy of the objections to the applicant, within 30 days of publication of the notice.

- (4) The applicant shall within 7 days from the date of publication of the notice as aforesaid submit to the Commission on affidavit the details of the notice published and shall also file relevant copies of the newspapers in which the notice is published.
- (5) The applicant may file his comments on the objections or suggestions received in response to the notice within 45 days of its publication in the newspapers.

**37. Service of notice of the application:-**

- (1) The Commission may direct that notice of the application be served on the Central Government, the State Government, the local authority or any other authority or person or body as the Commission may direct in such form with such particulars and in such manner as the Commission may consider appropriate.
- (2) The applicant shall apply for and obtain the "no objection" certificate required from the Central Government in terms of clause (ii) of Sub-Section (2) of Section 15 of the Central Act before the application is placed for hearing by the Commission for grant of the licence.

**38. Objections:-**

- (1) Any person intending to object to the grant of the licence shall file objection within thirty days from the date of publication of the notice by the applicant. The objection shall be filed in the form of reply and the provisions of Chapter II dealing with reply shall apply to the filing of such objections.
- (2) Any person who desires to have any amendment made in proposed conditions of licence shall deliver a statement of the amendment to the applicant and to such Officer as the Commission may designate in this behalf and within the time allowed by the Commission for filing objection.

**39. Hearings and local inquires:-**

- (1) If the applicant has duly arranged for the publication of the notice of the intended application and the time for filing of the objection is over and after the applicant has furnished to the Commission the no objection certificate, if any, required from the Central Government, the Commission may proceed with the hearing of the application.
- (2) The Commission shall give the notice of hearing to the applicant, the persons who had filed objections, the Central Government, the State Government and such other authority, person or body as the Commission may consider appropriate.
- (3) The Commission shall consider the recommendations, if any, from the State Transmission Utility in regard to the grant of Transmission licence.
- (4) If any person objects to the grant of a licence applied for, the Commission may if either the applicant or the objector so desires, cause a local inquiry to be held of which the notice in writing shall be given to both the applicant and the objector;

- (5) In case of such local inquiry a memorandum of the results of the inquiry made shall be prepared and shall be signed by the applicant, the Officer or person designated for the purpose and such other person as the Commission may direct.
- (6) The hearing on the application for grant of licence shall thereafter proceed as far as possible in the same manner as provided in Chapter II of these Regulations.

**40. Grant of licence:-**

- (1) After inquiry if any, and the hearing, the Commission may decide to grant or refuse the licence and if it decides to grant the licence it may do so on such terms and conditions and with such modifications to the general or specific conditions as the Commission may decide.
- (2) When the Commission has approved the grant of licence, the Secretary or such other Officer as the Commission may designate in this behalf, shall inform the applicant of such approval and of the form in which it is proposed to grant the licence and the conditions to be satisfied by the applicant including the initial and periodical licence fees to be paid by the applicant for the grant of the licence.
- (3) The Commission may publish a notice in two daily newspapers, as the Commission may consider necessary, stating the name and address of the person to whom it proposes to issue the licence.
- (4) On receiving an intimation in writing from the applicant that he is willing to accept a licence in the form approved by the Commission and after the applicant satisfies the conditions imposed for the grant of the licence, the Commission may direct the applicant to publish the licence or such part or gist thereof as the Commission consider it to be appropriate.
- (5) The Commission shall immediately after issue of a licence, forward a copy of the licence to the State Government, Central Electricity Authority, local authority, and to such other persons as the Commission considers necessary.

**41. Date of commencement of licence:-**

The licence shall commence from the date the Commission may direct as the date of commencement of licence, and the licence shall be in force for the period directed in the Licence, subject however to earlier revocation in accordance with law.

**42. Deposit of maps:-**

- (1) When a licence has been granted, three sets of maps showing, as regards such licence, the particulars specified in Regulation 26 of these Regulations shall be signed and dated to correspond with the date of the notification of the grant of the licence by such Officer as the Commission may designate in this behalf.
- (2) One set of such maps shall be retained as the deposited maps by the said Officer and the other two sets shall be given to the licensee after due attestation by the Commission.
- (3) The Licensee shall whenever required by Commission furnish the maps in an electronic form.

**43. Deposit of licence copies:-**

- (1) Every person who is granted a licence shall within thirty days of the grant thereof:
  - (a) have adequate number of copies of the licence printed;
  - (b) have adequate number of maps prepared showing the area of supply stated in the licence; and
  - (c) arrange to exhibit a copy each of such licence and maps for public inspection at all reasonable times at his head office and at his local offices (if any) within the area of supply.
- (2) Every such licensee shall, within the aforesaid period of thirty days, supply free of charge one copy of the licence to every Municipal Corporation and Municipal Office within the area of supply and shall also make necessary arrangements for the sale of printed copies of the licence to all persons applying for the same during the period of the licence, at a price not exceeding normal photocopying charges.

**44. Preparation and submission of accounts:-**

- (1) Every licensee shall cause the accounts of his utility to be made up to the thirty-first day of March each year.
- (2) Such licensee shall prepare and render an annual statement of his accounts in accordance with the provisions of the State Act, within a period of six months from the aforesaid date, or such extended period as the Commission may authorise after it is satisfied that the time allowed is insufficient owing to any cause beyond the control of the licensee. The statement shall be rendered in such numbers of copies as the Commission direct.
- (4) The accounts shall be made up in such forms as the Commission may direct from time to time. The forms shall be signed by the Licensee or the duly authorized agent or manager of the Licensee.
- (5) The Commission may, by special or general order direct that, in addition to the submission of the annual statements of accounts under sub-clause (3) the Licensee shall submit to the Commission or such other authority as it may designate in this behalf such additional information as it may require for the purpose.

**45. Distribution (Condition of Supply) Code: -**

- (1) The Distribution Licensee shall comply with the OERC Distribution (Conditions of Supply) Code, 2004.
- (2) The Distribution Licensee shall within 6 months from the grant of the licence and in the case of deemed licensee under Section 14 of the Act not later than 31<sup>st</sup> December 2004 file with the Commission the modifications to the existing Conditions of Supply and on the approval being granted by the Commission the conditions of Supply with such modification approved by the Commission shall apply to the Distribution Licensee.

- (3) Until the Commission approves the Conditions of Supply under clause (2) above, the Distribution Licensee shall follow the existing conditions of supply with such specific modification as the Commission may direct.
- (4) The Distribution Licensee shall always keep in his office adequate number of copies of the updated Distribution (Condition of Supply) Code and he shall, on demand, sell such copies to any applicant at a price not exceeding normal photocopying charges.

**46. Contravention by Licensee:-**

The Commission may pass such orders as it thinks fit in accordance with the provisions of the Central Act, State Act and these Regulations for the contravention or the likely contravention of the terms and conditions of licence by the Licensee.

**47. Revocation of the licence:-**

- (1) The proceedings for revocation of the licence or for passing of any other orders stated in Section 19 of the Central Act shall be initiated by an order passed by the Commission. The Commission may initiate such proceedings suo motu or on application of the licensee or on receiving any complaint or information from any person.
- (2) The Commission shall give notice of the proceedings for the revocation of the licence to the licensee and to such other persons, authority or body as the Commission may consider necessary.
- (3) Subject to the provisions of Central Act, and the procedure contained therein, the inquiry by the Commission for revocation of the licence, in so far it is applicable, shall be in the same manner as provided in Chapter II of these Regulations.

Provided that the licensee shall be given not less than three months notice in writing to show cause against the proposed revocation and the notice to show cause issued to the licensee shall clearly state the grounds on which the Commission proposes to revoke the licence.

- (4) If the Commission decides to revoke the licence, the Commission shall communicate the order of revocation to the licensee stating the effective date from which such revocation shall take effect.
- (5) The Commission may instead of revoking the licence pass any other order imposing further terms and conditions subject to which the Licensee is permitted to operate thereafter.
- (6) Where the Commission has given notice for revocation of licence, the licensee may, after prior approval of the Commission, sell the undertakings of the Licensee to any person who is found eligible by the Commission for grant of licence, without prejudice to any penalty which may be imposed or prosecution proceeding which may be initiated against the person whose licence is revoked.

**48. Amendment of the licence:-**

- (1) The application for amendment to the terms and conditions of the licence may be made by the Licensee in such form as may be directed for the purpose by the Commission. The application

shall be accompanied with a statement of the proposed amendment and shall be supported by affidavit as provided in Chapter II of these Regulations.

- (2) The application for amendment shall be accompanied by a receipt of such fee as the Commission may direct and paid in the manner directed by the Commission.
- (3) The applicant shall, within seven days from the date of admission and numbering of the application for amendment, publish a notice of the amendment application filed giving a brief statement of the amendment proposed, the reason for the proposed amendment, the effect of the amendment proposed on the discharge of the functions of the Licensee under the Licence granted, the alternate arrangement proposed for such discharge of the functions and such other particulars as the Commission may direct. The publication shall give the addresses of the offices at which the application for amendment may be inspected and the copies of documents be purchased and shall state that every local authority, utility or person, desirous of making any representation with reference to application to the Commission, may do so by letter addressed to such Officer as the Commission may designate in this behalf, within thirty days from the date of publication.
- (4) In the event the Commission proposes to amend the terms and conditions of the Licence granted to a licensee the Commission shall publish a notice of the proposed amendment giving a brief statement of the amendment proposed, the reason for the proposed amendment, the effect of the amendment proposed on the discharge of the functions of the Licensee under the Licence granted, the alternate arrangement proposed for such discharge of the functions and such other particulars as the Commission may consider appropriate
- (5) Unless otherwise directed in writing by the Commission, the procedure laid down in these Regulations for grant of licence, in so far it can be applied, shall be followed while dealing with an application for amendment of the licence.

#### **49. Exemption of the Distribution Licence**

- (1) Until otherwise directed by the Commission, the following classes of persons engaged in the supply of electricity in the State of Orissa shall be deemed to have applied for and granted the Distribution Licence for the purpose contained herein and subject to the fulfillment of the conditions contained in clause (2):
  - (i) Persons who supply electricity generated by themselves and/or supplied to them by an authorised person, for the purposes of an event or function not exceeding two months, and when the electricity is distributed through a system owned by them.
  - (ii) Persons who supply electricity to the residential colonies as a part of their activity of maintaining such colonies for use and occupation of their employees and/or for use and occupation of persons providing facilities and services to the employees, where such person procures electricity from any Licensee or from any other source approved by the



Commission and distributes the electricity within the residential colonies on no-profit motive basis.

- (iii) Persons receiving electricity from the licensee and supplying electricity to their own employees' colony including ancillary facilities, on no profit basis.
  - (iv) Persons receiving electricity from the licensee at a single point in a residential or commercial complex and supplying the same to the persons in the same premises, on no profit basis.
  - (v) Such other persons as the Commission may from time to time by order notify, subject to such terms and conditions as the Commission may direct.
- (2) The Licence under clause (1) above shall:
- (i) establish the electric line or works and restrict its activity only within the area of operation;
  - (ii) comply with all applicable rules and regulations concerning the safety and security of the operation.
- (3) If any difference or dispute arises as to whether the person is entitled to undertake supply of electricity as a Licensee under Regulation 49, the decision thereon of the Commission shall be final.

#### **CHAPTER-V**

##### **GENERATING COMPANIES AND CAPTIVE GENERATING STATIONS**

**50.** The generating companies and other persons who have established generating stations including captive generating stations in the State and persons who desire to establish such generating stations including Captive Generating Stations shall furnish to the Commission the technical and other relevant details of the generating stations as per **Appendix – 6A** and **6B**, as the case may be, within 30 days of notification of these Regulations or within 30 days of the commencement of generation of electricity at the station, whichever is later.

Provided that the Captive Generating Stations of Low Tension Consumers shall not be required to furnish the above details to the Commission unless otherwise specifically directed by the Commission.

#### **CHAPTER - VI**

##### **POWER PROCUREMENT AND PURCHASE**

- 51** (1) In accordance with the provisions of the Central Act and the State Act and the licence conditions every Distribution Licensee shall purchase or procure electricity required for the business of the Distribution Licensee in an economical and efficient manner and under a transparent power purchase and procurement process and generally based on the principles of least cost purchase.
- (2) The power purchase by a Distribution Licensee may be classified by the Commission as short term power purchase or long term power purchase on terms as may be decided by the Commission from time to time.

(3) The Commission may from time to time issue guidelines, practice directions and orders governing the short term purchases and long term purchases which the Distribution Licensee can undertake for the purpose of the licensed business.

(4) Unless otherwise approved by the Commission by a general or special order a long term power purchase or procurement by the Distribution Licensee shall be done through a structured competitive procurement process approved by the Commission.

(5) The Distribution Licensee shall file with the Commission the details in regard to the distribution system under his control and arrangement available from the Transmission Licensee and others in the State to evacuate the electricity procured and to distribute the same in accordance with the power procurement plans approved by the Commission.

(6) The Commission may from time to time lay down the details required to be given by the Distribution Licensee in regard to resource planning, power purchase and procurement planning, planning for transmission system and distribution system, competitive procurement process as well as all other matters relating to purchase of energy by the licensee in the guidelines and practice directions that may be issued by the Commission from time to time.

(7) The Commission shall take into consideration while determining the tariffs of the Distribution Licensees as per this regulation and as per the Tariff Regulations to be framed by the Commission under Section 61 of the Central Act, the approval granted by the Commission to the Distribution Licensees for the power purchase and procurement process under this clause and the actions and inactions on the part of the Distribution Licensees in complying with the terms contained in this clause.

(8) Nothing contained herein shall affect the obligations of distribution licensee under the existing contract and arrangement with the Bulk supply Licensee or the entities which may succeed to such Bulk Supply activities in the State.

## **CHAPTER - VII**

### **INVESTMENT APPROVALS**

**52.** (1) Unless otherwise directed by the Commission, every licensee shall obtain prior approval of the Commission for making investment in the licensed business if such investment is above the limits laid down by the Commission in the Licence Conditions.

(2) (a) The Commission may at its discretion hold such inquiries and consultations as the Commission may consider appropriate while dealing with the application for approval for the investment to be made by the licensee.

(b) The Commission may at its discretion initiate a proceeding or consider the application for investment approval as a part of the proceedings for determination of tariff or along with any other proceedings as the Commission may consider appropriate.

(3)The Commission shall be entitled to appoint consultants, experts and others as the Commission may consider appropriate and authorise the Commission's staff, consultants and experts to hold discussions and deliberations with the licensees before the Commission considers the application for investment approval.

(4) (a)The licensee and other applicants seeking investment approval shall furnish information, particulars, documents as may be required by the Commission staff, consultants and experts appointed by the Commission for the purpose and allow them access to the records and documents in the possession or custody of the licensee.

(b)The licensee shall cooperate with the Commission's staff, consultants and experts to enable them to discharge their functions and to submit a report to the Commission on the outcome of their findings.

## **CHAPTER VIII TARIFFS**

### **53. Filing by the Licensees:-**

- (1) Subject to the provisions of the Central Act and the State Act, each year, by 30<sup>th</sup> November or by such other time as may be directed by the Commission, each Transmission and Distribution Licensee shall file with the Commission, in the format as may be laid down by the Commission, statements containing calculation of the expected aggregate revenue from charges under its currently approved tariff and the expected cost of providing services for the ensuing financial year.
- (2) If a Transmission or Distribution Licensee carries on more than one business, the statements referred to in clause (1) above shall be given separately for each separate business of the licensee and in such manner in respect of each such business as the Commission may direct.
- (3) The statements referred to in clause (1) above shall contain the following details:
  - (a) the licensee's demand forecast by customer or consumer category for the ensuing financial year and the basis of the forecast;
  - (b) a calculation of expected aggregate revenue that would result from the above demand during the same period under the currently approved tariff by customer or consumer category;
  - (c) a calculation of the licensee's estimated costs of providing the service required by the level of demand indicated in sub-clause (a) above for each category of consumers during the stated period calculated in accordance with the financial principles and their application contained in the Sixth Schedule to the Electricity (Supply) Act, 1948 as was in force before the repeal of the said Act by the Electricity Act, 2003 or such other principles the Commission may direct from time to time;

- (d) In case the Licensee carries on any business or services other than those licensed, the Licensee shall give separate revenue and expense statements together with such details as the Commission may require in respect of such business or services; and
  - (e) Such other information as the Commission may direct.
- (4) The Transmission or the Distribution Licensee shall for such period as may be directed by the Commission, file an application containing proposals to deal with the gaps between the expected aggregate revenue at the then prevalent tariff and the expected cost of services including schemes for reduction in loss levels, other efficiency gains to be achieved, the revision in charges and changes in tariff structure for different categories of consumers.
- (5) The application under clause (1) shall be accompanied by such fees as the Commission may direct.
- (6) The Transmission or the Distribution Licensee shall furnish to the Commission such additional information, particulars and documents as the Commission may require from time to time after such filing of revenue calculations and tariff proposals.
- (7) The Transmission or the Distribution Licensee shall publish for the information of the public the contents of the application in an abridged form in such manner the Commission may direct and shall provide copies of the application and documents filed with the Commission at a price not exceeding normal photocopying charges.

**54. Multi Year Tariff Principles and Guidelines:-**

- (1) The Commission may adopt multi year tariff principles for matters relating to calculation of revenue requirements of the Transmission or the Distribution Licensees and the tariff determination including on aspects of investments, reduction of loss levels, other efficiency gains to be achieved, the revision in charges, changes in tariff structure, pass through of identified element of costs and such other matters as the Commission may by a general or special order direct.
- (2) The Commission may, as and when considered appropriate, issue guidelines for filing statement of revenue calculations and tariff proposals for periods of more than one financial year and unless waived by the Commission, the licensee shall follow such guidelines issued by the Commission.

**55. Hearing:-**

- (1) The Commission may hold a proceeding on the revenue calculations and tariff proposals given by the Transmission or the Distribution Licensee and may hear such persons as the Commission may consider appropriate to decide on such revenue calculations and tariff proposals.
- (2) The procedure of hearing on the revenue calculations and tariff proposals of the Transmission or the Distribution Licensee shall be in the manner as the Commission may decide from time to time.

**56. Order of the Commission:-**

- (1) Upon hearing the Transmission or the Distribution Licensee and such other parties and upon making such other inquiry as the Commission consider it to be appropriate, the Commission shall make an order and notify the Transmission or the Distribution Licensee of its decision on the revenue calculations and tariff proposals.
- (2) While making an order under clause (1) above or at any time thereafter, the Commission may direct the publication of the tariff determined by the Commission which the Transmission or the Distribution Licensee shall charge different consumers or customers and categories thereof in the ensuing period.
- (3) The Commission shall, within seven days of the order forward a copy of the order to the State Government, the Central Electricity Authority and the concerned licensees.

**57. Publication:-**

- (1) The Transmission or the Distribution Licensee shall publish the tariff or tariffs approved by the Commission in the newspapers having circulation in the area of supply as the Commission may direct. The publication shall, besides such other things as the Commission may require, include a general description of the tariff changes and its effect on the classes of the consumers.
- (2) The tariffs so published under clause (1) above shall be the notified tariffs applicable in the concerned area. In case of any increase in tariff the same shall take effect only after such number of days as the Commission may direct which shall not be less than seven days, from the date of first publication of the tariffs.

**58. Subsidy from State Government:-**

- (1) The State Government may, at any time as it considers to be appropriate, propose any subsidy to any class or classes of consumers in the tariff determined by the Commission and upon receiving such proposal, the Commission shall determine the amount to be paid as subsidy and the terms and conditions of such payment including the manner of payment of subsidy amounts by the State Government to the person affected by the decision of the subsidy.
- (2) While determining the tariff, the Commission shall take into account any subsidies, which the State Government had agreed to give to any class or classes of consumers.
- (3) The tariff determined by the Commission shall be published duly taking into account such subsidy offered by the State Government as on the date of the decision of the Commission.
- (4) Notwithstanding anything contained above no direction of the State Government shall be operative if the payment is not made by the State Government in accordance with the provisions of Section 65 of the Central Act and in the event of such directions being not operative the amount of subsidy to be made by the State Government shall be added in the tariff to be charged by the Distribution Licensees to the concerned class or classes of consumers.

- (5) The Distribution Licensee shall be required to furnish documents to the satisfaction of the Commission that the subsidy amount received by the Distribution Licensee from the State Government is duly accounted for and utilised for the purpose for which the subsidy is given.

**59. Bills to Consumers:-**

- (1) The Distribution Licensee shall raise bills for the energy supplied or transmitted or services rendered to the consumers only in accordance with the notified tariff and in accordance with clause (4) of Regulation 58 above.
- (2) The bills to the consumers shall distinctively display the per unit cost of supply of electricity to the class of consumers as determined by the Commission, the subsidy, if any, given by the State Government applicable to such class of consumers and such other particulars as the Commission may by order direct from time to time

**60. Revision of Tariff:-**

- (1) No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as laid down by the Commission.
- (2) Unless otherwise agreed by the Commission, the amount eligible for recovery towards the adjustment for the price and mix variations in the quantity of energy to be purchased shall be computed and recovered as set out in **Appendix 7**. The Commission may from time to time add, vary, amend, alter or substitute the contents of the **Appendix 7** by a general or special order the Commission may issue for the purpose and such order may be issued as applicable to specific licensees
- (3) The consequential orders which the Commission may issue to give effect to subsidy the State Government may provide shall not be construed as amendment of tariff notified. The Distribution Licensee shall, however, give appropriate adjustments in the bills to be raised on the consumers for the subsidy amount in the manner the Commission may direct.

**61. Generation Tariff:-**

- (1) The Commission may approve the tariff for the power purchase and procurement by the Distribution Licence from the Generating Company as per Chapter VI of these Regulations and on such approval being given, the Generating Company shall be entitled to sell the energy to the Distribution Licensee as per the tariff, terms and conditions contained in the Power Purchase Agreement as approved by the Commission.
- (2) In cases other than those covered by clause (1) above the Generating Company may file an application by 30<sup>th</sup> November of each year to the Commission for determination of tariff for any of

its generating station for the sale of energy in the State of Orissa giving details of the fixed and variable costs associated with the generation and sale of energy from the generating station.

- (3) The application by the Generating Company under clause (2) may be filed for determination of the tariff for sale of energy to any specific purchaser including the Distribution Licensee or to more than one such purchaser or generally for sale of energy from time to time to such person or persons including Distribution Licensees who may desire to purchase energy.
- (4) The Commission may determine the tariff for the sale of energy from the Generating Station of a Generating Company and the Generating Company may thereafter enter into agreements for the sale of energy on the tariff determined by the Commission subject to the terms and conditions laid down by the Commission.

Provided that the determination of the Generation Tariff shall not entitle the Generating Company to sell energy to the Distribution Licensees on a long term basis except in accordance with the Power Purchase Agreement or procurement to be finalised by the Distribution Licensee as provided in Chapter VI of these Regulations and the terms and conditions which the Commission may lay down for the purpose from time to time.

Provided also that determination of the Generation Tariff shall not entitle the Generating Company to sell energy to the Distribution Licensees on a short term basis except in accordance with the Chapter VI of these regulations and on the terms and conditions laid down by the Commission under Chapter VI.

## **62. Tariff of Electricity Trader:-**

- (1) The Commission may approve the tariff for the power purchase and procurement by the Distribution Licensee from the Electricity trader as per Chapter VI of these Regulations and on such approval being given, the Electricity Trader shall be entitled to sell the energy to the Distribution Licensee as per the tariff, terms and conditions contained in the Power Purchase Agreement as approved by the Commission.
- (2) The Commission may from time to time fix the trading margin of the electricity trader for trading in electricity in the State of Orissa.
- (3) The determination of the trading margin for the Electricity Trader, shall not entitle the Distribution Licensees to purchase the electricity except as provided in Chapter VI of these Regulations and further such sale shall be subject to such further terms and conditions the Commission may lay down for the purpose from time to time.

**CHAPTER IX**  
**PERFORMANCE STANDARDS, CODES, SUPPLY REGULATIONS ETC.**

63. (1) The Commission may from time to time direct the licensees and generating companies operating in the State to formulate or adopt such codes as the Commission considers appropriate for the proper and efficient conduct of the electricity sector and operation of the power systems in the State..
- (2)The Commission may hold such consultations and proceedings as the Commission considers appropriate to deliberate on the codes formulated by the licensee.
- (3)The Commission may appoint consultants or experts to advise the Commission on the codes formulated by the licensees and generating companies.
- (4)The Commission may direct such modifications as it considers appropriate to the codes formulated by the Licensees and generating companies.
- (5)The licensees and generating companies shall implement codes approved by the Commission consistent with the directions and orders made by the Commission from time to time.
- (6)Without prejudice to the generality of the powers of the Commission in regard to the enforcement of standards of performance in operation of the power system the codes to be formulated and implemented may include
- a) Grid Code;
  - b) Distribution (planning and operation) Code;
  - c) Distribution ( Conditions of Supply )Code;
  - d) Consumer related codes including code of practice on payment of bills, standards and quality of service and fines and penalties for failure, consumer rights statement and consumer complaint handling procedures;
  - e) Safety and Security Code;
  - f) Transmission System Planning and Security Standards;
  - g) Distribution System Planning and Security Standards;
  - h) Transmission Operating standards;
  - i) Distribution Operating Standards; and
  - j) Codes on utilisation of electricity and demand side management.
- (7) The Licensees and generating companies shall follow the existing standards, codes and conditions of supply till the codes, standards and conditions of supply are formulated and implemented in accordance with these Regulations.



## **CHAPTER – X**

### **INVESTIGATION, INQUIRY, COLLECTION OF INFORMATION, ETC.**

#### **64. Collection of information:-**

- (1) The Commission may make such order or orders as it thinks fit in terms of the provisions of the Central Act or the State Act for collection of information, inquiry, investigation, entry, search, seizure and without prejudice to the generality of its powers:
  - a) the Commission may specially authorize any officer, on behalf of the Commission, to enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry or adjudication under the Central Act and the State Act, may be found and may seize any such document or take extracts or copies there from.
  - b) in the exercise of powers conferred on it by Section 128 of the Central Act, the Commission may, on being satisfied that a licensee or a generating company has failed to comply with any of the conditions of the licence or the provisions of the Central Act or the State Act or the rules or regulations made thereunder, at any time, by order in writing, direct an Investigating Authority directed in the order to investigate the affairs of the licensee or generating company and report to the Commission. For this the Commission may direct the minimum information to be maintained by the licensees and generating companies in their books and also direct the manner in which such information shall be maintained and the checks and verifications to be adopted.
  - c) the Commission may, at any time, direct the Secretary or any one or more Officers or consultants or any other person as the Commission considers appropriate to study, investigate or furnish information with respect to any matter within the purview of the Commission.
  - d) the Commission may for the above purpose give such other directions as it may deem fit and direct the time within which the report is to be submitted or information furnished.
  - e) the Commission may issue or authorize the Secretary or an Officer on its behalf to issue directions to any person to produce before it and allow to be examined and kept by an Officer of the Commission designated in this behalf the books of accounts as provided in the Central Act or the State Act.

- f) the Commission may, for the purpose of collecting any information particulars or documents which the Commission consider necessary in connection with the discharge of its functions, issue such directions and follow any one or more of the methods provided for in the Central Act or the State Act as the Commission consider it to be appropriate.
  - g) if any such report or information obtained as stated in Central Act or the State Act or in these regulations appears to the Commission to be insufficient or inadequate, the Commission or the Secretary or an Officer authorised for the purpose may give directions for further inquiry, report and furnishing of information.
  - h) the Commission may direct that such incidental, consequential and supplemental matters which may be considered relevant in connection with the above, be attended to.
- (2) In the discharge of the functions and powers under the Central Act, the State Act and the Regulations, the Commission may, if it thinks fit, direct a notice of inquiry to be issued and proceed with the matter in a manner provided under Chapter II of these Regulations.
  - (3) On receipt of the report from the appointed Investigating Authority, and after giving an opportunity to the licensee or generating company, as the case may be, to make a representation in connection with the report, the Commission may make an order to require the licensee or the generating company to take such action in respect of any matter arising out of the report as the Commission may think fit;
  - (4) The Commission may, after giving reasonable notice to the licensee or the generating company, as the case may be, publish the report submitted by the Investigating Authority or such portion(s) thereof as may appear to the Commission to be necessary.
  - (5) Every Licensee and the generating company shall maintain in his books the information to the extent and in the manner contained in **Appendix 8** to these regulations to facilitate the functions of the investigating authority. The Commission may from time to time add, vary or modify the contents of **Appendix 8** as the Commission may consider appropriate

**65. Assistance of Experts:-**

- (1) The Commission may, at any time, take the assistance of any institution, consultants, experts, engineers, chartered accountants, advocates, surveyors and such other technical and professional persons, as it may consider necessary, and ask them to study, investigate, inquire into any matter or issue and submit report or reports or furnish any information. The Commission may determine the terms and conditions for engagement of such professionals.
- (2) If the report or information obtained in terms of the above Regulations or any part thereof is proposed to be relied upon by the Commission in forming its opinion or view in any proceedings,

the parties in the proceedings shall be given a reasonable opportunity for filing objections and making submissions on the report or information.

## **CHAPTER XI FINES AND CHARGES**

### **66. Imposition of Fines and Charges:-**

- (1) The Commission may initiate a proceeding for imposition of fines and charges and award of compensation upon receiving from the person affected a complaint or on its own if the Commission is of the view that the facts made known prima-facie constitute non-compliance or violation by a generating company, a licensee or other person of any provision or requirement of the Central Act or the State Act or of any of the rules or regulations framed there under or of directions or orders of the Commission.
- (2) If the Commission decides on the basis of the information received that there is a prima-facie cause to proceed in the matter, a case shall be registered and notice shall be issued to the person who is responsible for non compliance or violation under clause (1) above to show cause within a reasonable time as to why the Commission should not impose the fines or charges on him. The notice shall state the substance of the allegation against such person with specific reference to the alleged non-compliance or violation.
- (3) On the date fixed in the notice for appearance, the Commission shall explain to the person who is responsible for non compliance or violation or his authorised representative, the non-compliance or violation alleged to have been committed by such person.
- (4) Where the person who is responsible for non compliance or violation appears in response to the notice and admits the truth of the allegation by a memorandum in writing, the Commission shall record the response and may impose fines or charges at its discretion in accordance with the provisions of the Central Act, the State Act and the Regulations framed by the Commission for the purpose and may also award compensation to the affected person.
- (5) Where the person who is responsible for non compliance or violation on appearance does not admit the alleged violation or non-compliance and demands a hearing, the Commission shall proceed to hear the case in accordance with the provisions of the Central Act and State Act and these Regulations.
- (6) If any person to whom a notice has been issued fails without reasonable cause to appear before the Commission on the date fixed for hearing or any subsequent date to which the proceeding may have been adjourned, the Commission may at its discretion proceed with the case ex parte in the absence of such person.
- (7) The Commission shall proceed to hear the complainant and take all such evidence, oral or documentary, or by way of affidavit, as may be produced in support of the case and take all such

evidence as may be produced by the person who is responsible for non compliance or violation in his defence. Where the proceeding has been initiated upon information received by the Commission, it may direct any of its officers to act as complainant in the matter and present the evidence in the case.

- (8) The Commission, at any stage of the proceeding, shall have the power to summon and enforce the attendance of any person who appears to be acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the Commission appears to be material or relevant to the subject matter of the proceeding.

**67. Process for levy and recovery of Fines and Charges:-**

- (1) If on the conclusion of any proceeding, the Commission is satisfied that any person is liable to fines or charges, it may by order in writing impose such fines or charges in accordance with the provisions of the Central Act or the State Act, and the Regulation specified for the purpose and may also award compensation.
- (2) While determining the quantum of fines or charges, the Commission shall, amongst other, consider the following factors:
- (a) the nature and extent of non-compliance or violation,
  - (b) wrongful gain or unfair advantage derived as a result of the non-compliance or violation,
  - (c) loss or degree of harassment caused to any person(s) as a result of the non-compliance or violation, and
  - (d) the repetitive nature of the non-compliance or violation.
- (3) While passing an order under this regulation, the Commission may award compensation to the complainant or affected party to be paid by the person found to have committed the non-compliance or violation.
- (4) The Commission may direct the time within which the fines, charges or compensation should be paid by the concerned person,
- (5) The Commission may designate an Officer to collect the fines and charges pursuant to the provisions of the Central Act and the State Act.

**68. Withdrawal and Disposal of Complaint:-**

- (1) If a complainant, at any time before a final order is passed in any proceedings satisfies the Commission that there are sufficient grounds for permitting him to withdraw his complaint against the respondent named in the complaint, or if there be more than one respondent, against all or any of them, the Commission may permit the complainant to withdraw the same.
- (2) If the Commission, is of the opinion that it will not be appropriate to allow the withdrawal of the complaint, the Commission may make orders for the complaint being continued by such other person in the place of the complainant and in such manner as the Commission may consider appropriate.

- (3) Where the Commission is of the opinion that the continuance of the proceeding under this regulation is unnecessary or is an abuse of the process, it may at any stage, terminate the proceeding for reasons to be recorded in writing.

## **CHAPTER - XII**

### **APPLICATION OF CERTAIN PROVISIONS OF INDIAN PENAL CODE AND CRIMINAL PROCEDURE CODE**

**69. Applicability of provisions of Indian Penal Code and Criminal Procedure Code:-**

- (1) In terms of Section 95 of the Act, the proceedings before the Commission shall be deemed to be judicial proceedings and Commission shall be deemed to be a Civil Court as specified in the said Section read with applicable provisions of the Indian Penal Code and the code of Criminal Procedure, 1973.
- (2) The extracts of the relevant provisions of the Indian Penal Code and Criminal Procedure Code are contained in **Appendix 9** to these Regulations.

## **CHAPTER XIII**

### **MISCELLANEOUS**

**70. Review of the decisions, directions and orders:-**

- (1) The Commission may on its own motion, or on the application of any of the person or parties concerned, within 90 days of the making of any decision, direction or order, review such decision, directions or orders and pass such appropriate orders as the Commission thinks fit.
- (2) An application for such review shall be filed in the same manner as a petition under Chapter II of these Regulations.
- (3) The application shall be accompanied by such fee, if any, as may be laid down by Commission.

**71. Continuance of proceedings after death, etc.: -**

- (1) Where in any proceedings any of the parties to the proceedings dies or is adjudicated as an insolvent or in the case of a Company under liquidation/ winding up, the proceedings shall continue with the successors-in-interest of the party concerned.
- (2) The Commission may, for reasons to be recorded, treat the proceedings as abated in case the Commission so directs and dispense with the need to bring the successors-in-interest to come on record.
- (3) In case any person wishes to bring on record the successors-in-interest, the application for the purpose shall be filed within 90 days from the event requiring the successors-in-interest to come on record.

Provided that the Commission may, if it is satisfied that there is sufficient cause for not filing the application within the time allowed, condone the delay subject to such terms and conditions, as the Commission may consider appropriate.

- (4) If the person fails to bring on record the successor-in-interest within the time allowed under clause (3) and in the event the application for condoning the delay in bringing on record the successor-in-interest is not condoned under the proviso to clause (3) the proceedings against the deceased person shall abate,

**72. Proceedings to be open to public: -**

The proceedings before the Commission shall be open to the public subject to availability of sitting accommodation.

Provided that the Commission may, if it thinks fit, and for reasons to be recorded in writing, order at any stage of the proceedings of any particular case that the public generally or any particular person or group of persons shall not have access to or be or remain in, the room or building used by the Commission for the purpose of conduct of the proceeding.

**73. Publication of petition:-**

- (1) Where any application, petition, or other matter is required to be published under the Central Act, the State Act or these Regulations or as per the directions of the Commission, it shall, unless the Commission otherwise orders or the Central Act or the State Act or Regulations otherwise provide, be advertised within such time as the Commission may direct and in the absence of any specific direction to the contrary not less than 5 days before the date fixed for hearing and further unless otherwise directed by the Commission such publication shall be done in two newspapers one in English Language and one in Oriya Language having wide circulation in the area concerned.
- (2) Except as otherwise provided, such advertisements shall give a heading describing the subject matter in brief.
- (3) Such advertisement to be published shall be approved by the Officer of the Commission designated for the purpose.

**74. Confidentiality:-**

- (1) The Records of the Commission, except those parts which for reasons directed by the Commission are confidential or privileged, shall be open to inspection by all, subject to the payment of fees and compliance with such other terms as the Commission may direct.
- (2) The Commission may, on such terms and conditions as it considers appropriate, provide for the supply of the certified copies of the documents and papers available with the Commission to any person.
- (3) The Commission may, by order, direct that any information, documents and other papers and materials produced before it or any of its Officers, consultants, representatives or otherwise which

may otherwise come into their possession or custody, shall be confidential or privileged and shall not be available for inspection or supply of copies, and the Commission may also direct that such document, papers or materials shall not be used in any manner except as specifically authorized by the Commission.

**75. Issue of orders and practice directions:-**

Subject to the provisions of the Central Act, State Act and these Regulations, the Commission may, from time to time, issue orders and practice directions in regard to the implementation of the Regulations and procedure to be followed on various matters which the Commission has been empowered by these regulations to lay down.

**76. Saving of inherent power of the Commission:-**

- (1) Nothing in these regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for meeting the ends of justice or to prevent the abuse of the process of the Commission.
- (2) Nothing shall bar the Commission from adopting a procedure, which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing deems it necessary or expedient.
- (3) Nothing in these regulations shall, expressly or impliedly, bar the Commission to deal with any matter or exercise any power under the Central Act and the State Act for which no Regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.

**77. General power to amend:-**

The Commission may, at any time amend any defect or error in any proceeding before it.

**78. Power to remove difficulties:-**

If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, by general or special order, do anything not being inconsistent with the provisions of the Central Act and the State Act, which appears to it to be necessary or expedient for the purpose of removing the difficulties.

**79. Power to dispense with the requirement of the Regulations:-**

The Commission shall have the power, for reasons to be recorded in writing and with notice to the affected parties, dispense with the requirements of any of the Regulations in a specific case or cases subject to such terms and conditions as may be directed.

**80. Extension or abridgment of time allowed:-**

Subject to the provisions of the Central Act and the State Act, the time allowed by these regulations or by order of the Commission for doing any act may be extended (whether it has already expired or not) or abridged for sufficient reason by order of the Commission.

**81. Effect of non-compliance:-**

The failure to comply with any requirement of these Regulations shall not invalidate any proceeding merely by reason of such failure unless the Commission is of the view that such failure has resulted in miscarriage of justice.

**82. Costs**

- (1) Subject to such conditions and limitations as may be directed by the Commission, the cost of all proceedings shall be awarded at the discretion of the Commission and the Commission shall have full power to determine by whom or out of what funds and to what extent such costs are to be paid and give all necessary directions for the aforesaid purposes.
- (2) The costs shall be paid within 30 days from the date of the order or within such time as the Commission may, by order, direct. The order of the Commission awarding costs shall be executed in the same manner as the decree/order of a Civil Court.

**83. Enforcement of orders passed by the Commission:-**

The Secretary shall ensure enforcement and compliance of the orders passed by the Commission, by the persons concerned in accordance with the provisions of the Central Act and the State Act and regulations and if necessary, may seek the orders of the Commission for directions.

**84. Recognition of Consumer Association and consumer interest:-**

- (1) It shall be open to the Commission to permit any recognized association, forum or other bodies corporate or any group of consumers to participate in any proceedings before the Commission and permit them to make such representation or participate in the proceedings before the Commission in such manner as the Commission considers appropriate.
- (2) It shall be open to the Commission for the sake of timely completion of proceedings, to direct grouping of the associations, forums referred to in clause (1) above so that they can make collective representation.
- (3) The Commission may appoint any officer or any other person to represent consumers' interest, if considered necessary.
- (4) The Commission may, for the purpose of clauses (1) or (3) above direct payment of such fees, costs and expense by such of the parties in the proceedings, as the Commission may consider appropriate.

**85. Repeal and Savings:-**

- 1) The provisions of the Orissa Electricity Regulatory Commission (Conduct of Business) Regulations, 1996, Orissa Electricity Regulatory Commission (Exemption from License) Regulations, 1998 and Orissa Electricity Regulatory Commission (Fines and Charges) Regulations, 1999 are hereby repealed.



(2) Section 5 of the Orissa General Clauses Act, 1937 shall apply to such repeal in the same manner and to the same extent as it applies to any enactment.

By order of the Commission

(M.R.HAZRA)

**SECRETARY**

**APPENDIX - 1**

(See Regulation 11)

**General Heading for Proceedings**

**BEFORE THE ORISSA ELECTRICITY REGULATORY COMMISSION, Bhubaneswar**

FILE NO.

CASE NO.

(To be filled by the Office)

**IN THE MATTER OF :**

(Gist of the purpose of the petition or application)

AND

**IN THE MATTER OF :**

(Names and full addresses of the petitioners/applicants and names and full addresses of the respondents).

**APPENDIX- 2**  
(See Regulation 12)

**BEFORE THE ORISSA ELECTRICITY REGULATORY COMMISSION Bhubaneshwar**

FILE No.

CASE NO. (To be filled by the Office)

**IN THE MATTER OF :** (Gist of the purpose of the petition or application) AND

**IN THE MATTER OF :**

(Names and full addresses of the petitioners/applicants and names and full addresses of the respondents)

Affidavit verifying the petition/reply/application

I, AB, son of ..... aged ..... residing at ..... do solemnly affirm and say as follows :

1. I am a Director / Secretary / ..... of ..... Ltd., the petitioner in the above matter and am duly authorised by the said petitioner to make this affidavit on its behalf.

Note: This paragraph is to be included in cases where the petitioner is the Company.

2. The statements made in paragraphs ..... of the petition herein now shown to me and marked with the letter 'A' are true to my knowledge and the statements made in paragraphs ..... are based on information and I believe them to be true.

Deponent

Verification:

I, the deponent above named do hereby verify that the contents of my above affidavit are true to my knowledge; no part of it is false and nothing material has been concealed there from

Verified at ..... on the day of .....

Deponent

## APPENDIX 3 A

(See Regulation 26)

## ORISSA ELECTRICITY REGULATORY COMMISSION

FORM – 1 : Application Form for grant of a Distribution Licence in the State of Orissa

The applicant must submit the completed application in six copies to the Secretary, Orissa Electricity Regulatory Commission, Vidyut Niyamak Bhavan, Unit VIII, Bhubaneswar-12 along with application fee of Rs. xxx (Rupees in words) in form of a DD drawn in favour of Orissa. Electricity Regulatory Commission, payable at Bhubaneswar.

## PART-A: GENERAL INFORMATION OF APPLICANT

1. Details of Applicant
  - a. Full Name of the Applicant :
  - b. Full Address of the Applicant :
  - c. Name, Designation & Address of the Contact Person :
  - d. Contact Telephone Numbers :  
Fax Number(s) :  
Email ID :
2. Nature and Details of Ownership
  - a. Company/ Firm/ Co-op Society/ Individual/ Others :
  - b. When and where Company Incorporation/ Registration  
Place of Incorporation/ Registration :  
Year of Incorporation :  
Registration Number :  
Place of Registration of the firm, co-op society
  - c. Names and Addresses of Directors/partners/governing body members/trustees
3. Principal Shareholders/ Partners/ Members
4. Details of the area of distribution and supply or the area of operation for which Distribution licence has been sought:
  - a. Boundaries of the proposed Area of Distribution/supply/operation:
  - b. Coverage of Distribution Network :
  - c. Nature of other electricity licenses / authorisation, if any, for electricity transmission, distribution or trading already granted :
  - d. Arrangement proposed for Sourcing of Power
    - i. Voltages :
    - ii. Source of Supply (Name of supplier) :
    - iii. Quantum of electricity proposed to be handled (Demand in MW and Energy in MU) :
    - iv. Purchase price at which electricity is proposed to be procured :

- e. Supply of Power
    - i. Voltages :
    - ii. Categories of Distribution & Supply :
  - f. Method and manner of establishing a forum for redressal of consumer grievances:
  - g. Funding arrangements (source and application) to meet supply obligations :
5. Arrangement, if any, proposed with the existing distribution licensee in the area of distribution or supply
  6. Arrangement with the Transmission Licensees and other distribution licensees for evacuation of electricity
  7. Resume of the Organisation giving details of
    - a. Management capability
    - b. Financial Strength
    - c. Ability to discharge distribution and supply activities in a sustainable manner
  8. Prior Experience (Past 3 years details for Related Business)  
*[To be filled in by the applicant or by each participant separately in case of JVC/ consortium (As applicable)]*

General Information	
Name & Address of the project(s) developed	
Brief description of project(s) developed	
Cost of the project(s) developed – Rs. Lakhs.	
Name & Address of the Client company(s) for whom the project(s) were developed	
Name, Designation & Address of Reference person of Client Co(s)	

## 9. Details of the Assets and facilities required for the Business

(i) Is the applicant acquiring Existing Assets or Creating New Assets?

(ii) For applicants acquiring Existing Assets

Funding	
<p>Proposed means of Finance</p> <p>Equity (Rs. Lakhs)</p> <p>Applicant</p> <p>Co-promoters</p> <p>Others</p> <p>Debt</p> <p>Domestic (Rs. Lakhs)</p> <p>Indian Financial Institutions</p> <p>Commercial Banks</p> <p>Others (give details)</p> <p>International (FC Million)</p> <p>Supplier's Credit</p> <p>Direct Borrowing</p> <p>Others (give details)</p> <p>Equivalent INR (with Exchange rate used)</p> <p>Others</p>	
<p>In case Asset Procurement/ Project is proposed to be jointly funded by an External Agency</p> <p>Name &amp; Address of the Agency, and contact details of the reference person of the Agency (<i>name, address, telephone/fax numbers, email etc.,</i>)</p> <p>Proposed Equity from the Agency (Rs. Lakhs)</p> <p>Agency's equity as a percentage of total equity (%)</p> <p>Nature of proposed tie-up between Applicant and the other agency.</p>	

<p>Details of debt proposed for the Asset Procurement/ Project</p> <p>Details of Lenders (<i>name &amp; address</i>).</p> <p>Details of Loan packages indicating the loan amount, currency, Term of loan, interest rate, up-front fees, Commitment charges etc.</p> <p>Whether any guarantee is being sought for the loans from any agency.</p> <p>Is Yes, provide details</p>	<p>Yes/ No</p>
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## (iii) For Applicants creating New Assets

<b>EPC</b>	
<p>Whether the Applicant is proposing to employ an EPC Contractor.</p> <p>If Yes, Name, Address &amp; contact details of the same.</p> <p>Proposed Contract Value Foreign Currency Equivalent INR (with Exchange rate used)</p>	<p>Yes/ No</p>

## (iv) For Applicants employing other contractors

<b>Other Contracts</b>	
<p>Whether the Applicant is proposing to employ any Contractor(s) for O&amp;M work.</p> <p>If Yes, Name, Address &amp; contact details of the same.</p> <p>Period of the Contract</p> <p>Details of the experience of the O&amp;M contractor in similar business(es)</p>	<p>Yes/ No</p>

**Note :**

1. *Consent letters of the other Agency & Contractors to associate with the Applicant for the above project to be enclosed.*
2. *Necessary approvals and no objections to be obtained at appropriate time and forwarded to the Commission.*

## 10. Appropriate Expertise (Personnel)

Name of Personnel	Qualification	Specialisation	Years of Experience	Status in the Firm
1.				
2.				
3.				
4.				
5.				

## 11. Financial Details of other business ventures of the applicant)

[To be filled in by the applicant or by each participant separately in case of JVC/ consortium (As applicable)]

General Information							
Names of Subsidiary Business Units			Products Manufactured/ Services				
1.			1.				
2.			2.				
3.			3.				
4.			4.				
5.			5.				
Financial Indicators			Year 1	Year 2	Year 3	Year 4	Year 5
Fixed Assets							
Gross Fixed Assets							
Accumulated Depreciation							
Net Fixed Assets							
Equity							
Promoters'							
Government/ Financial Institutions							
Public							
Others							
Liabilities							
Long Term							
Short Term							
Income							
Sale of Power							
Others							
Expenses							
Admin. & General Expense							
Repairs & Maintenance							
Employee Cost							
Interest & Financial Charges							
Long Term							
Short Term							
Others							
Financial Indicators			Year 1	Year 2	Year 3	Year 4	Year 5
Overall Turnover (Rs. Lakhs)							



Profits & Returns (Rs. Lakhs) Net Profits Dividends Paid					
Operating Ratios Return on Equity Return on Capital Employed Return on Net Fixed Assets					
Liquidity Ratio Debt Service Coverage Ratio Current Ratio Quick Ratio					
Capital Adequacy & Credit worthiness Debt/ Networth Debt/ Equity					
Turnover Ratio Total Asset Turnover Fixed Asset Turnover					

## 12. Baseline Information (Business for which Licence is sought)

<b>General Information</b>	
Asset Base Sub-Stations 500 kVA 250 kVA 100 kVA 63 kVA 25 kVA 10 kVA Others EHT Line (Ckt. Kms) 66 kV and above HT Line(Ckt. Km.) 33 kV 11 kV LT Line (Ckt. Kms) 400/440/220 Volts	
<b>Commercial Information</b>	
Metering Status Metered Consumers (as a % of Total Consumers)	
Billing Status Billing (as a % of Total Input)	
Revenue Realization Revenue Realization per Unit Sale (Rs./ Unit)	

Collection Efficiency (%)	
Loss Technical Loss (%) Commercial Loss (%)	

**PART B LIST OF DOCUMENTS TO ACCOMPANY LICENCE APPLICATION**

1. The applicant shall submit all the three statutory financial statements; balance sheets, profit and loss account and cash flow statement.
2. Information relating to pre-existing licence (if any), with copy of licence / sanction
3. Copies of Company's Articles of Association, Memorandum of Association, Partnership deeds and similar constitutional documents.
4. Certification of incorporation/Registration.
5. Certification for commencement of Business.
6. Original Power of Attorney of the Signatory to commit the Applicant or its Promoter.
7. Details of Income Tax registration and PAN NO.
8. Details of import license, if any.
9. Data relating to Management and Financial capability
  - a. Managerial
    - i. Senior management's curriculum vitae
    - ii. Cadre strength for different categories (technical and non-technical)
  - b. Financial
    - i. Bank references asserting that the Applicant is financially solvent
    - ii. Most recent Annual Financial Statements.
    - iii. Annual Audited Accounts for the past 3 years for the Applicant and any Holding Company, Subsidiary or affiliated company
    - iv. Any accompanying notes and certifications on the above statements from reputed chartered accountant
  - c. Any other documentary evidence to substantiate the financial capabilities, technical competence and others.
10. Data relating to the Applicant's Business proposals
  - a. Five year Business Plan (with projection) for the proposed business for which the application relates
  - b. Five year annual forecasts of costs, sales, revenues, project financing and funding arrangements (clearly giving the assumptions involved) and basis for such assumption
11. Detailed Map(s)
  - i. Detailed electrical distribution map (including information on substations and configuration of the system) and geographical map for the proposed area of Distribution, drawn to scale

(scale not less than one cm to one km or any other scale as may be approved by the Commission)

- ii. The map shall clearly distinguish between the existing system and new facilities that shall be required for meeting the obligation to supply
  - iii. The map shall indicate the streets and roads in which the electricity is distributed
  - iv. A list of all local authorities vested with the administration of any portion of the area of Distribution
  - v. An approximate Statement describing any lands, which the Applicant proposes to acquire for the purpose of the licence and the means of such acquisition
12. No objection certificates to distribute or supply in an area from the Central Government as per s.15(2)(ii) of the Electricity Act or acknowledgement for the filing of the application with the Central Government seeking such approval.

**Date**

**Signature of the Applicant**

**APPENDIX 3 B**

(See Regulation 26)

**ORISSA ELECTRICITY REGULATORY COMMISSION**

FORM – 1 : Application Form for grant of a Transmission Licence in the State of Orissa

The applicant must submit the completed application in six copies to the Secretary, Orissa Electricity Regulatory Commission, Vidyut Niyamak Bhavan, Unit-VIII, Bhubaneswar-12 along with application fee of Rs. xxx (Rupees in words) in form of a DD drawn in favour of Orissa Electricity Regulatory Commission, payable at Bhubaneswar.

**PART-A: GENERAL INFORMATION OF APPLICANT**

1. Details of Applicant
  - a. Full Name of the Applicant :
  - b. Full Address of the Applicant :
  - c. Name, Designation & Address  
of the Contact Person :
  - d. Contact Telephone Numbers :  
Fax Number(s) :  
Email ID :
2. Nature and Details of Ownership
  - a. Company/ Firm/ Co-op Society/ Individual/ Others :
  - b. When and where Company Incorporation/ Registration  
Place of Incorporation/ Registration :  
Year of Incorporation :  
Registration Number :
  - c. Names and Addresses of Directors
3. Principal Shareholders/ Partners/ Members
4. Details of the area of transmission for which the licence has been sought:
  - a. Boundaries of the proposed Area of Transmission:
  - b. Coverage of the Transmission Network :
  - c. Nature of other electricity licenses / authorisation, if any,  
for electricity transmission, distribution or trading already granted :
  - d. Funding arrangements (source and application) to meet the obligations :
5. Arrangement proposed with the State Transmission Utility
6. Arrangement, if any, proposed with other licensees
7. Arrangement, if any, with Generating Companies
8. Resume of the Organisation giving details of
  - a. Management capability

- b. Financial Strength
- c. Ability to attend to the activities in a sustainable manner

9. Prior Experience (Past 5 years details for Related Business)  
 [To be filled in by the applicant or by each participant separately in case of JVC/ consortium (As applicable)]

General Information	
Name & Address of the project(s) developed	
Brief description of project(s) developed	
Cost of the project(s) developed – Rs. Lakhs.	
Name & Address of the Client company(s) for whom the project(s) were developed	
Name, Designation & Address of Reference person of Client Co(s)	

10. Details of the Assets and facilities required for the Business

(i) Is the applicant acquiring Existing Assets or Creating New Assets?

(ii) For applicants acquiring Existing Assets

Funding	
Proposed means of Finance	
Equity (Rs. Lakhs)	
Applicant	
Co-promoters	
Others	
Debt	
Domestic (Rs. Lakhs)	
Indian Financial Institutions	
Commercial Banks	
Others (give details)	
International (FC Million)	
Supplier's Credit	
Direct Borrowing	
Others (give details)	
Equivalent INR (with Exchange rate used)	
Others	

<p>In case Asset Procurement/ Project is proposed to be jointly funded by an External Agency</p> <p>Name &amp; Address of the Agency, and contact details of the reference person of the Agency (<i>name, address, telephone/fax numbers, email etc.,</i>)</p> <p>Proposed Equity from the Agency (Rs. Lakhs)</p> <p>Agency's equity as a percentage of total equity (%)</p> <p>Nature of proposed tie-up between Applicant and the other agency.</p>	
<p>Details of debt proposed for the Asset Procurement/ Project</p> <p>Details of Lenders (<i>name &amp; address</i>).</p> <p>Details of Loan packages indicating the loan amount, currency, Term of loan, interest rate, up-front fees, Commitment charges etc.</p> <p>Whether any guarantee is being sought for the loans from any agency.</p> <p>Is Yes, provide details</p>	<p>Yes/ No</p>

## (iii) For Applicants creating New Assets

<b>EPC</b>	
<p>Whether the Applicant is proposing to employ an EPC Contractor.</p> <p>If Yes, Name, Address &amp; contact details of the same.</p> <p>Proposed Contract Value Foreign Currency Equivalent INR (with Exchange rate used)</p>	<p>Yes/ No</p>

## (iv) For Applicants employing other contractors

<b>Other Contracts</b>	
------------------------	--

Whether the Applicant is proposing to employ any Contractor(s) for O&M work.	Yes/ No
If Yes, Name, Address & contact details of the same.	
Period of the Contract	
Details of the experience of the O&M contractor in similar business(es)	

Note :

a) Consent letters of the other Agency & Contractors to associate with the Applicant for the above project to be enclosed.

b) Necessary approvals and no objections to be obtained at appropriate time and forwarded to the Commission.

11. Appropriate Expertise (Personnel)

Name of Personnel	Qualification	Specialisation	Years of Experience	Status in the Firm
a.				
b.				
c.				
d.				
e.				

12. Financial Details of other business ventures of the applicant)

[To be filled in by the applicant or by each participant separately in case of JVC/ consortium (As applicable)]

General Information					
Names of Subsidiary Business Units			Products Manufactured/ Services		
Financial Indicators					
Fixed Assets					
Gross Fixed Assets					
Accumulated Depreciation					
Net Fixed Assets					
Equity					
Promoters'					
Government/ Financial Institutions					
Public					
Others					
Liabilities					
Long Term					
Short Term					

Income					
Sale of Power					
Others					
Expenses					
Admin. & General Expense					
Repairs & Maintenance					
Employee Cost					
Interest & Financial Charges					
Long Term					
Short Term					
Others					
<b>Financial Indicators</b>					
Overall Turnover (Rs. Lakhs)					
Profits & Returns (Rs. Lakhs)					
Net Profits					
Dividends Paid					
Operating Ratios					
Return on Equity					
Return on Capital Employed					
Return on Net Fixed Assets					
Liquidity Ratio					
Debt Service Coverage Ratio					
Current Ratio					
Quick Ratio					
Capital Adequacy & Credit worthiness					
Debt/ Networth					
Debt/ Equity					
Turnover Ratio					
Total Asset Turnover					
Fixed Asset Turnover					

## 13. Baseline Information (Business for which Licence is sought)

<b>General Information</b>	

## PART B LIST OF DOCUMENTS TO ACCOMPANY LICENCE APPLICATION

1. The applicant shall submit all the three statutory financial statements; balance sheets, profit and loss account and cash flow statement.



2. Information relating to pre-existing licence (if any), with copy of licence / sanction.
3. Copies of Company's Articles of Association, Memorandum of Association, Partnership deeds and similar constitutional documents.
4. Certification of incorporation/Registration.
5. Certification for commencement of Business.
6. Original Power of Attorney of the Signatory to commit the Applicant or its Promoter.
7. Details of Income Tax registration and PAN no.
8. Details of import license, if any.
9. Data relating to Management and Financial capability
  - a. Managerial
    - i. Senior management's curriculum vitae
    - ii. Cadre strength for different categories (technical and non-technical)
  - b. Financial
    - i. Bank references asserting that the Applicant is financially solvent
    - ii. Most recent Annual Financial Statements
    - iii. Annual Audited Accounts for the past 3 years for the Applicant and any Holding Company, Subsidiary or affiliated company
    - iv. Any accompanying notes and certifications on the above statements from reputed chartered accountant
  - c. Any other documentary evidence to substantiate the financial capabilities, technical competence and others.
10. Data relating to the Applicant's Business proposals
  - i. Five year Business Plan (with projection) for the proposed business for which the application relates
  - ii. Five year annual forecasts of costs, revenues, project financing and funding arrangements (clearly giving the assumptions involved) and the basis of such assumption.
11. An approximate Statement describing any lands, which the Applicant proposes to acquire for the purpose of the licence and the means of such acquisition
12. Acknowledgement for service of the copy of the application with the annexure and documents to the State Transmission Utility

Date

Signature of the Applicant

**APPENDIX 3 C**

(See Regulation 26)

**ORISSA ELECTRICITY REGULATORY COMMISSION**

FORM – 1 : Application Form for grant of a Trading Licence in the State of Orissa

The applicant must submit the completed application in six copies to the Secretary, Orissa Electricity Regulatory Commission, Vidyut Niyamak Bhavan, Unit-VIII, Bhubaneswar-12 along with application fee of Rs. xxx (Rupees in words) in form of a DD drawn in favour of Orissa Electricity Regulatory Commission, payable at Bhubaneswar.

**PART-A: GENERAL INFORMATION OF APPLICANT**

1. Details of Applicant
  - a. Full Name of the Applicant :
  - b. Full Address of the Applicant :
  - c. Name, Designation & Address of the Contact Person :
  - d. Contact Telephone Numbers :  
Fax Number(s) :  
Email ID :
2. Details of Ownership
  - a. Company/ Firm/ Co-op Society/ Individual/ Others :
  - b. When and where Company Incorporation/ Registration  
Place of Incorporation/ Registration :  
Year of Incorporation :  
Registration Number :
  - c. Names and Addresses of Directors
3. Principal Shareholders/ Partners/ Members
4. Details of the area of operation
  - a. Nature of other electricity licenses / authorisation, if any, of the applicant for electricity transmission, distribution or trading already granted :
- 5.. Details of Operation
  - a. Maximum trading volume proposed to be undertaken by the applicant on a monthly basis for the first three years;
6. Funding arrangements (source and application) to meet the obligations :
7. Arrangement for purchase of energy
- 8 Arrangement, if any, proposed with other existing trading and distribution licensees
9. Resume of the Organisation giving details of

- a. Management capability
- b. Financial Strength
- c. Ability to attend to the activities in a sustainable manner

10. Prior Experience (Past 5 years details for Related Business)

*[To be filled in by the applicant or by each participant separately in case of JVC/ consortium (As applicable)]*

General Information	
Name & Address of the project(s) developed	
Brief description of project(s) developed	
Cost of the project(s) developed – Rs. Lakhs.	
Name & Address of the Client company(s) for whom the project(s) were developed	
Name, Designation & Address of Reference person of Client Co(s)	

11. Financial Details of other business ventures of the applicant)

*[To be filled in by the applicant or by each participant separately in case of JVC/ consortium (As applicable)]*

General Information						
Names of Subsidiary Business Units		Products Manufactured/ Services				
Financial Indicators						
Fixed Assets						
Gross Fixed Assets						
Accumulated Depreciation						
Net Fixed Assets						
Equity						
Promoters'						
Government/ Financial Institutions						
Public						
Others						



## PART B LIST OF DOCUMENTS TO ACCOMPANY LICENCE APPLICATION

1. The applicant shall submit all the three statutory financial statements; balance sheets, profit and loss account and cash flow statement.
2. Information relating to pre-existing licence (if any), with copy of licence / sanction
3. Copies of Company's Articles of Association, Memorandum of Association, Partnership deeds and similar constitutional documents.
4. Certification of incorporation/Registration.
5. Certification for commencement of Business.
6. Original Power of Attorney of the Signatory to commit the Applicant or its Promoter.
7. Details of Income Tax registration and PAN no.
8. Data relating to Management and Financial capability
  - a. Managerial
    - i. Senior management's curriculum vitae
    - ii. Cadre strength for different categories (technical and non-technical)
  - b. Financial
    - i. Bank references asserting that the Applicant is financially solvent
    - ii. Most recent Annual Financial Statements.
    - iii. Annual Audited Accounts for the past 3 years for the Applicant and any Holding Company, Subsidiary or affiliated company
    - iv. Any accompanying notes and certifications on the above statements from reputed chartered accountant
  - c. Any other documentary evidence to substantiate the financial capabilities, technical competence and others.
9. Data relating to the Applicant's Business proposals
10. Five year Business Plan (with projection) for the proposed business for which the application relates
11. Five-year annual forecasts of costs, revenues, project financing and funding arrangements (clearly giving the assumptions involved).
12. An approximate Statement describing any lands, which the Applicant proposes to acquire for the purpose of the licence and the means of such acquisition

**Date**

**Signature of the Applicant**

**APPENDIX - 4A**

(See Regulation 31)

**ORISSA ELECTRICITY REGULATORY COMMISSION  
GENERAL CONDITIONS OF DISTRIBUTION LICENCE****1 DEFINITIONS**

1.1 Unless the context otherwise requires, in these General conditions :

**“Accounting Statement”** means for each financial year, accounting statements for the Licensed Business comprising a profit and loss account, a balance sheet and a statement of sources and application of funds, together with notes thereto as detailed under the Companies Act, 1956 (1 of 1956) and such other particulars and details in the manner as the Commission may direct from time to time. If the Distribution Licensee engages in any business or activity in addition to the Licensed Business , the accounting statements shall comply with the regulations of the Commission dealing with the treatment of Other Business of Distribution Licensee and show separately the amounts of any revenue, cost, asset, liability, reserve or provision, which has been either:

charged from the Licensed Business to any Other Business or vice versa together with a description of the basis of that charge; or

determined by apportionment or allocation between the Licensed Business and any Other Business of the Distribution Licensee together with a description of the basis of the apportionment or allocation.

**“Act”** means the Electricity Act, 2003 (36 of 2003)

**“Annual Accounts”** means the accounts of the Distribution Licensee prepared in accordance with the provisions of the Companies Act, 1956 and/or in such other manner as may be directed by the Commission in terms of the provisions of the Act;

**“Area of Distribution” or “Area of Supply”** means the area of Distribution stated in the Distribution Licence within which the Distribution Licensee is authorised to establish, operate and maintain the Distribution System and supply electricity;

**“Auditors”** means the Distribution Licensee’s auditors holding office in accordance with the requirements of Sections 224 to 234A or Section 619 as appropriate, of the Companies Act 1956 (1 of 1956);

**“Authorised”**, in relation to any Person, business or activity, means authorised by licence granted under Section 14 of the Act or deemed to be granted under the first second third and fifth proviso to Section 14 of the Act or exemption granted under Section 13 of the Act and the regulations of the Commission;

**“Commission”** means the Orissa Electricity Regulatory Commission;

**“Deemed Licensee”** means a person authorised under the first, second, third, and fifth provisos to Section 14 of the Act

**“Distribution”** means the conveyance or wheeling of electricity by means of a Distribution System;

**“Distribution Business”** means Authorised business of a Distribution Licensee to operate and maintain a Distribution System for supplying of electricity to the consumers in an Area of Supply;

**“Distribution Code”** means the Distribution (Planning and Operation) Code governing all material technical aspects relating to connections to and the operation and use of the Distribution System as approved by the Commission;

**“Distribution Licensee”** means the person authorised by the Distribution Licence and shall include the deemed licensee who is so authorised under Section 14 of the Act.

**“Distribution System Operating Standards”** means the standards related to the Distribution Licensee’s operation of the Distribution System as approved by the Commission pursuant to clause 16 of these General Conditions

**“Distribution System Planning and Security Standards”** means the standards related to the adequacy of the Distribution Licensee’s system planning and security of the Distribution System, as approved by the Commission pursuant to clause 16 of these General Conditions.

**“Existing Distribution System Planning and Security Standards”** means the standards for system planning and security of the Distribution System existing in the area of distribution as on the date of the grant of Licence;

**“Existing Distribution System Operating Standards”** means the standards for operating the Distribution System existing in the area of distribution as on the date of the grant of Licence;

**“Force Majeure”** means events beyond the reasonable control of the Licensee, including, but not limited to earthquakes, cyclones, floods, storms, adverse weather conditions, war, terrorist attacks, civil commotion or other similar occurrences that leads to any act that would involve a breach of relevant laws or regulations concerned with electrical safety;

**“Generating Set”** means any plant or apparatus for the production of electricity and shall, where appropriate, include a generating station comprising of one or more than one generating unit;

**“Generator Interconnection Facilities”** means electrical lines, transformers, busbars, switch-gear, plant or apparatus utilised to enable access to a Transmission System or Distribution System by the Generating Set(s);

**“Grid Code”** means the grid code developed by the State Transmission Utility and approved by the Commission, covering all material technical aspects relating to connections to and the operation of the Grid the use of a Distribution System, or (in so far as relevant to the operation and use of a Distribution System) the operation of electric lines and electrical plant connected to the Distribution System, the Distribution Systems, or the system of any Supplier, and shall include the Interim Grid Code;

**“Holding Company”** shall have the same meaning as in Section 4 of the Companies Act 1956 (1 of 1956);

**“Interim Grid Code”** means the existing practices and procedures implemented by the State Transmission Utility pending the approval of the Grid Code by the Commission,

**“Interim Distribution Code”** means the existing practices and procedures in the area of distribution to be followed by the Distribution Licensee for operating the Distribution System as on the date of the grant of the Licence pending the approval by the Commission of the Distribution Code of the Distribution Licensee;

**“Licensed Business”** means the business of Distribution and Supply of electricity as authorised under the Distribution Licence;

**“Major Incident”** means an incident associated with the Distribution of electricity, which results in a significant interruption of service, substantial damage to equipment, or loss of life or significant injury to human beings, or as otherwise directed by the Commission and shall also include any other incident which the Commission expressly declares to be a major incident;

**“Operational Control”** means possessing the authority to make operational decisions such as commissioning and utilisation of units, service lines and equipment;

**“Other Business”** means business of the Distribution Licensee other than the Licensed Business;

**“Performance Standards”** means the standards as may be determined by the Commission pursuant to Section 57 of the Act;

**“Person”** shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;

**“Regulations”** means the regulations made by the Commission, under the provisions of the Act or the State Act;

**“Specific Conditions”** means the conditions in addition or in variation to the General Conditions, which the Commission may lay down, specifically for a Distribution Licensee

**“State”** means the State of Orissa.

**“State Act”** means the Orissa Electricity Reform Act, 1995 to the extent the provisions of the said Act is not inconsistent with the Act;

**“State Government”** means the Government of the State of Orissa;

**“Subsidiary”** shall have the same meaning as in Section 4 of the Companies Act 1956 (1 of 1956);

**“Trading Business”** means the Authorised business of an Electricity Trader in the Area of Operation allowed under the Trading Licence granted ;

**“Trading Licence”** means the Licence granted under Section 14 of the Act to undertake Trading in Electricity;

**“Trading Licensee”** means an Electricity Trader and shall include deemed licensee who is so authorised under Section 14 of the Act;

**“Transfer”** shall include the sale, exchange, gift, lease, licence, loan, securitisation, mortgage, charge, pledge or grant of any other encumbrance or otherwise permitting of any encumbrance to subsist or parting with physical possession or any other disposition or dealing;

**“Use of System”** means use of the Distribution System for the transportation or wheeling of electricity,

**“Users”** means anyone who uses the Distribution System .

1.2 Words, terms and expressions occurring in these General Conditions and not defined herein above shall bear the same meaning as in the Act.

## **2 TERM:**

The Distribution Licence shall come into force on the date to be mentioned by the Commission in the order granting the licence and subject to the terms and conditions of the grant of licence, shall remain in force for the period mentioned in the Order.

## **3 COMPLIANCE WITH LAWS, RULES AND REGULATIONS**

3.1. The Distribution Licensee shall comply with the provisions of the Act, Rules, Regulations, Orders and Directions issued by the Commission from time to time and the provisions of all other applicable laws.

3.2. The Distribution Licensee shall act in accordance with these General Conditions except where the Distribution Licensee is exempted from any provisions of these General Conditions at the time of the grant of licence or otherwise specifically by an approval of the Commission to any deviation there from.

3.3. The Distribution Licensee shall duly comply with the order and directions of the National Load Despatch Centre, Regional Load Despatch Centre and the State Load Despatch Centre and other statutory authorities issued in the discharge of their functions under the Act or the State Act.

## **4 FUNCTIONS OF THE DISTRIBUTION LICENSEE**

4.1 The Distribution Licensee shall develop and maintain an efficient, co-ordinated and economical distribution system in the Area of Distribution and effect supply of electricity to consumers in such area of supply in accordance with the provisions of the Act, the State Act, Rules, Regulations, Orders and Directions of the Commission.

4.2 The Distribution Licensee shall be entitled to:

- (a) Purchase, import or otherwise acquire electricity from generating companies, electricity trader(s) and from other persons with whom the Distribution Licensee has agreements or arrangements of power purchase or procurement of energy in accordance with the terms and conditions of such agreement and arrangement consented to or approved by the Commission ;
- (b) purchase or acquire electricity from any Person whose generating unit existing as on date of the grant of the Licence, is directly connected to and interfaced with the Distribution System of the Distribution Licensee, provided that the Distribution Licensee shall intimate the Commission of the existing arrangements for such purchase or acquisition of electrical energy and obtain the general or special approval of the Commission



- (c) Purchase or otherwise acquire electricity from any person or licensee on the tariffs and terms and conditions as approved by the Commission;
  - (d) Appoint Franchisees to distribute and/or supply of electricity for a specified area within the area of distribution of the Distribution Licensee without a separate licence to be taken by such franchisee provided that the Licensee shall be responsible for distribution of electricity in his area of supply;
  - (e) Undertake Trading in electricity without the need for a separate Trading Licence;
  - (f) Provide access to the Distribution System to any person for wheeling of electricity in accordance with regulations made by the Commission for the purpose;
  - (g) Sell electricity or energy capacity contracted for such period and to the extent of electricity or capacity is not required by the Distribution Licensee for the discharge of his obligations to supply electricity in the area of supply.
- 4.3 The Distribution Licensee shall sell, supply or otherwise dispose of electricity to any person, only in accordance with his Licence, on the tariffs and terms and conditions as approved by the Commission;
- 4.4 The Distribution Licensee shall purchase the energy required by the Licensee for meeting obligation under the Distribution Licence in an economical manner and under a transparent power purchase or procurement process and in accordance with the regulations, guidelines, directions made by the Commission from time to time.
- 4.5 The Distribution Licensee shall engage in any Other Business only consistent with the Regulation of the Commission issued under Section 51 of the Act
- 4.6 The Distribution Licensee shall seek approval of the Commission before making any loans to, or issuing any guarantee for any obligation of any Person, except when made or issued for the purposes of the Licensed Business. The loans to employees pursuant to their terms of service and trade advances in the ordinary course of business are excluded from the requirement to seek such approval.
- 4.7 The Distribution Licensee may engage any of the Subsidiaries or Holding Company or a Subsidiary of such Holding Company of the Distribution Licensee to provide any goods or services to the Licensee in connection with the Licensed Business, subject to the following conditions:
- (a) that the transaction will be on an arms-length basis and at a value that is fair and reasonable in the circumstances;
  - (b) that the transaction will be consistent with any Regulation framed by the Commission relating to the provision of goods and services with respect to Licensed Business; and
  - (c) that the Licensee will give 15 days' notice with details of such arrangement, to the Commission prior to commencement of such arrangement.
- 4.8. The Distribution Licensee may establish Subsidiaries or associated companies or grant a Franchisee or enter into management contracts including appointment of billing agent to conduct or carry out any of the functions, which the Distribution Licensee is authorised to conduct or carry under the Licence Provided that the Licensee shall be responsible for all actions of the Subsidiaries or associated companies or Franchisees or agents or contractors.
- 4.9. Except as provided in clause 4.8 above the Distribution Licensee shall not transfer or assign this Licence or any of the functions under the Licence to any other person without the prior approval of the Commission.

- 4.10. The Distribution Licensee shall provide open access to the Distribution System for use of the Licensees, and Generating Companies including the Captive Generating Plant(s) and the Consumer subject to no operational constraints in the Distribution System and subject to payment by the user of all applicable tariffs and charges as determined or directed to be charged by any general or special order of the Commission.
- 4.11. The Distribution Licensee shall not, without the prior approval of the Commission in accordance with the provision of Section 17 of the Act:
- (a) undertake any transaction to acquire by purchase or take over or otherwise, the utility of any other Licensee;
  - (b) acquire any beneficial interest in any Generating Company or Generating Station; or
  - (c) transmit, distribute or supply electricity to any Person in the State, not under the Licensee;
- 4.12. The Distribution Licensee shall provide to the other Licensees the intervening Distribution facilities to the extent of surplus capacity available, in his Distribution System and in the event of any dispute as to the availability of the surplus capacity the same shall be determined by the Commission. The charges, terms and conditions for the use of the intervening facilities may be mutually agreed between the Licensees subject to any order made by the Commission for the purpose. In the event of any disagreement the same shall be decided by the Commission.
- 4.13. Any other conditions which not otherwise covered as may be decided by the Commission while granting licence.

## **5 ACCOUNTS**

- 5.1 Unless otherwise permitted by the Commission the financial year of the Distribution Licensee for the purposes of these General Conditions and matters relating to the Licensed Business shall run from the first of April to the following thirty-first of March.
- 5.2 The Distribution Licensee shall, in respect of the Licensed Business and any Other Business:
- (a) keep such accounting records as would be required to be kept in respect of each such business so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to the Licensed Business are separately identifiable in the books of the Distribution Licensee, from those of Other Business in which the Distribution Licensee may be engaged;
  - (b) prepare on a consistent basis from such accounting records and deliver to the Commission the Accounting Statements; namely
    - (i) in respect of the first six months of each financial year, a Half Yearly profit and loss account, cash flow statement and balance sheet together with such supporting documents and information as the Commission may direct from time to time;
    - (ii) in respect of the Accounting Statements prepared, an Auditor's report for each financial year, stating whether in their opinion the statements have been properly prepared and give a true and fair view of the revenues, costs, assets, liabilities,

reserves and provisions of, or reasonably attributable to such businesses to which the statements relate; and

- (iii) a copy of each Half Yearly profit and loss account not later than three months after the end of the period to which it relates, and copies of the Accounting Statements and Auditor's report not later than six months after the end of the financial year to which they relate.

- 5.3 The Distribution Licensee shall not normally change the basis of charge or apportionment or allocation of revenues or expenses in relation to the preparation of the Accounting Statements in respect of a financial year from those applied in respect of the previous financial year, without prior intimation to the Commission. Any change, if proposed, in the basis of charge or apportionment of revenues or expenses shall be consistent with the provisions of the Companies Act, 1956, the Accounting Standards or Rules and further any guidelines issued by the Commission in this regard.
- 5.4 Where, in relation to the Accounting Statements in respect of a financial year, the Distribution Licensee has changed the basis of charge or apportionment or allocation from those adopted for the immediately preceding financial year, the Distribution Licensee shall, if directed by the Commission, prepare and deliver to the Commission such Accounting Statements on the basis which it applied in respect of the immediately preceding financial year.
- 5.5 The Accounting Statements under clause 5.2. above shall, unless otherwise directed by the Commission:
- (a) be prepared and published with the Annual Accounts of the Distribution Licensee, in the manner provided herein;
  - (b) state the accounting policies adopted;
  - (c) be prepared in accordance with the generally accepted accounting policies; and
  - (d) be prepared in the form as the Commission may stipulate from time to time;
- 5.6 The References to costs or liabilities of, or reasonably attributable to Licensed Business or Other Business shall be construed as excluding taxation, and capital liabilities which do not relate principally to such Business and interest thereon.
- 5.7 The Distribution Licensee shall ensure that the Accounting Statements in respect of each financial year prepared under clause 5.2 and the Auditor's report in respect of each financial year are publicised in such manner as the Commission may direct and are made available to any Person requesting them at a price not exceeding the reasonable cost of duplicating them.

## **6 PROHIBITION OF UNDUE PREFERENCE**

The Distribution Licensee shall not show undue preference to any Person in the distribution and supply of Electricity or rendering of services in the area of supply. The Distribution Licensee shall not be held to have shown any such undue preference if any differentiation of the consumer occurs as a result of the implementation of any order of the Commission or of the order of the State Government in regard to subsidy payment under Section 65 of the Act.

**7 PROVISION OF INFORMATION TO THE COMMISSION**

- 7.1 The Distribution Licensee shall furnish to the Commission without delay such information, documents and details related to the Licensed Business or any Other Business of the Distribution Licensee, as the Commission may require from time to time for its own purposes or for the purposes of the Government of India, State Government, the Central Commission, the Central Electricity Authority, the State Transmission Utility and State Load Dispatch Centre.
- 7.2 The Distribution Licensee shall duly maintain the information as the Commission may direct under Section 128 of the Act.
- 7.3 The Distribution Licensee shall notify the Commission as soon as possible the occurrence of any Major Incident affecting any part of its Distribution System and in any event, by not later than two months from the date of such occurrence:
- (a) submit a report to the Commission giving full details of the facts within the knowledge of the Distribution Licensee regarding the incident and its cause;
  - (b) in the event the report under sub-clause (a) is likely to take more than two months from the date of such incident, the Distribution Licensee shall within one month from such date of the incident submit a preliminary report with such details which the Distribution Licensee can reasonably furnish and state reasons as to why the Distribution Licensee requires more than two months for giving full report of such incident; and
  - (c) give copies of the report to all parties concerned with the Major Incident and to such other Persons as the Commission may direct.
- 7.4 The decision of the Commission as to what is a Major Incident shall be final. The Commission may by order, after providing an opportunity of hearing direct the Distribution Licensee to provide such amount of compensation as the Commission may direct to persons, who suffer substantial injury or to the heirs of those who lose their lives as a result of such major incident where the Major Incident has been caused by any act of commission, omission or negligence on the part of any of the employees or agents of the Distribution Licensee.
- 7.5 The Commission at its discretion may require the submission of a report on the major incident to be prepared by an independent person at the expense of the Distribution Licensee.
- 7.6 The Distribution Licensee shall also undertake such studies as the Commission may direct from time to time for the improvement of its Distribution System and any other matter concerning the Distribution Business that the Commission considers necessary to avoid the occurrence of any such major incident.
- 7.7 The Distribution Licensee shall duly inform the Commission about any incident restricting it from meeting obligations under the licence granted including any act of omission or commission by others and steps taken by the Distribution Licensee to mitigate the effect of such incident.
- 7.8 The Commission may at any time require the Distribution Licensee to comply with the provisions of clauses 7.3 to 7.7 as to incidents which the Commission may specifically direct and the Distribution Licensee shall be obliged to comply with the same notwithstanding that such incidents are not Major Incidents; provided that the time limits specified in shall commence from the date that the Commission notifies Distribution Licensee of such requirement.

- 7.9 The Distribution Licensee shall submit a Business Plan within three months of Distribution Licence coming in force for such period as the Commission may direct and shall update such plan annually. The Business Plan shall contain year wise load growth, year wise Distribution loss reduction proposal along with specific action plan, metering plan for metering interface points, investment plan as detailed in Clause 8 herein, treatment of previous losses, debt restructuring plan, cost reduction plan, projected profit and loss account, projected balance sheets, projected cash flow statements and projected important financial parameters.
- 7.10 The Commission may require the Distribution Licensee to intimate by the end of first quarter of each financial year the progress made in implementing the Business Plan of the previous financial year with the comparison of actual implementation vis-à-vis the Plan as approved by the Commission and shall post it in its web-site .

## **8 INVESTMENTS**

- 8.1 Unless otherwise directed by the Commission, every licensee shall obtain prior approval of the Commission for making investment in the licensed business if such investment is above the limits laid down in clause.8.8
- 8.2 The Distribution Licensee shall duly comply with the Regulations, guidelines, directions and orders the Commission may issue from time to time in regard to the investments to be made in the Distribution Business.
- 8.3 The Distribution Licensee shall submit to the Commission Investment Plans as a part of the business plan under clause 7.9 above giving details of investment schemes to be undertaken during the concerned period for the approval of the Commission. The Distribution Licensee shall demonstrate to the satisfaction of the Commission that:
- (a) there is a need for such Investments in the Distribution System contained in the Investment Plan;
  - (b) the Distribution Licensee has made techno-economic analysis and environmental aspects of all viable alternatives to the proposal for investing in or acquiring new Distribution System assets to meet such need.
- 8.4 In the application for investment approval, the licensee shall furnish the following information or particulars:
- (a) A detailed project report containing techno-economic analysis and environmental aspects of the investment together with the outline of the works to be undertaken, the salient features and particulars demonstrating the need for investment;
  - (b) The project cost together with the cost benefit analysis;
  - (c) Whether the investment is in a new project or for expansion or up-gradation of an existing system;
  - (d) Sanctions and statutory clearances required for execution of the project and status of such sanctions and statutory clearances;
  - (e) Phasing of investment over the financial years and commissioning schedule;

- (f) The manner in which investments will be capitalised for the purposes of inclusion in the revenue requirements of the Licensee;
- (g) Constraints which the Licensee may face in making the investments or in implementing the project including constraints on information available;
- (h) Resource mobilisation and financial plans for meeting the investment;
- (i) Process for inviting and finalizing tenders for procurement of equipment, material and /or services relating to investment, in accordance with a transparent tendering procedure as may be approved by the Commission; and
- (j) Such other particulars as the Commission may from time to time direct.

- 8.5** (a) The licensee and other applicants seeking investment approval shall furnish information, particulars, documents as may be required by the Commission staff, consultants and experts appointed by the Commission for the purpose and allow them access to the records and documents in the power, possession or custody of the licensee.
- (b) The licensee shall cooperate with the Commission's staff, consultants and experts to enable them to discharge their functions and to submit a report to the Commission on the outcome of their findings.
- 8.6** The Distribution Licensee shall intimate, by the end of the first quarter of each financial year
- (a) the annual investment plan with details of investment schemes to be carried out during the financial year; and
  - (b) the progress made in implementing the annual investment plan of the previous financial year with the comparison of actual implementation vis-à-vis the plan as approved by the Commission for the concerned period.
- 8.7.** The Distribution Licensee shall make the investments in a prudent manner being guided by the duty to build, maintain and operate an efficient, co-ordinated and economical Distribution System in its Area of Business.
- 8.8** The Distribution Licensee shall not undertake schemes involving Major Investments, not covered under the Investment Plan approved by the Commission under clause 8.3 above without the prior approval of the Commission, and for such approval the Distribution Licensee shall demonstrate to the satisfaction of the Commission the factors mentioned in clause 8.3 above.

- 8.9. The Distribution Licensee shall invite and finalise tenders for procurement of equipment, material and/or services relating to major investment, in accordance with a transparent tendering procedure as may be directed by the Commission.
- 8.10. For the purposes of this clause 8, the term "Major Investment" means any planned investment in or acquisition of Distribution facilities, the cost of which, when aggregated with all other investments or acquisitions (if any) forming part of the same overall transaction, equals or exceeds an amount contained in the Specific Conditions applicable to the Distribution Licensee or otherwise decided by the Commission from time to time by a general or special order.
- 8.11 The Distribution Licensee shall be entitled to make Investment in the Distribution Business other than those covered under clauses 8.3 and 8.8 above but for the purposes of considering such Investment while determining the tariff, the Distribution Licensee shall satisfy the Commission that the Investment was required for the Distribution Business and such investment was made in an efficient, co-ordinated and economical manner.
- 8.12 The Distribution Licensee shall submit to the Commission along with the "Expected Revenue Calculations" filed under Section 62 of the Act, the highlights of the annual investment plan consisting of the schemes approved by the Commission, schemes submitted before the Commission for approval and all schemes not requiring prior approval of the Commission planned for the ensuing financial year and shall make investment in the said financial year in accordance with the said investment plan. The Commission shall take into consideration while determining the tariffs of the Licensees as per the Tariff Regulations to be framed by the Commission under Section 61 of the Act, the approval granted by the Commission to the Licensees for the investments under this clause and the actions and inactions on the part of the Distribution Licensees in complying with the terms contained in this clause.

Provided that if any unforeseen contingencies required reallocation of funds within the schemes listed in the annual investment plan, the Distribution Licensee may do so to the extent such reallocation up to a limit of 10 % of the overall investment plan and 25 % of the approved amount in respect of each item/work of the investment plan. The Distribution Licensee shall give due intimation of such relocation to the Commission within 7 days of making the investment

Provided also that if on account of unforeseen circumstances the Distribution Licensee is required to make investment in a scheme, which does not find a place in the annual investment plan, the Distribution Licensee may do so if the same is not a Major Investment and subject to the conditions contained in clause 8.12 above.

## 9. TRANSFER OF ASSETS

- 9.1 Save as provided in this Clause 9, the Distribution Licensee shall not, in a single transaction or a set of related transactions, transfer or relinquish Operational Control over any asset whose book value at the time of the proposed Transfer exceeds the amount decided by Commission in the Specific Conditions applicable to the Distribution Licensee or otherwise by a general or special order.
- 9.2 The Distribution Licensee shall give to the Commission prior notice of its intention to transfer or relinquish Operational Control over any asset whose value exceeds the amount decided by the Commission as per clause 9.1 above and the Distribution Licensee shall disclose all relevant facts in the communication to the Commission. The Commission may, within 30 days of the receipt of the notice, seek further information in support of the transaction and shall, generally within 30 days of such further information being submitted by the Distribution Licensee, and where no such further information is sought by the Commission as above, within 60 days of the filing of the application, approve the Transfer arrangement subject to such terms and conditions or modifications as is considered appropriate or reject the same, for reasons to be recorded in the order issued by the Commission.
- 9.3 The Distribution Licensee may Transfer or relinquish Operational Control over any asset as is detailed in any notice given under clause 9.2 where:
- (a) the Commission confirms in writing that it consents to such Transfer or relinquishment of Operational Control subject to such conditions as the Commission may impose; or
  - (b) the Commission does not inform the Distribution Licensee in writing of any objection to such Transfer or relinquishment of Operational Control within the notice period referred to in clause 9.2 and the transfer is effected by transparent and competitive bidding procedures.
- 9.4 The Distribution Licensee may also Transfer or relinquish Operational Control over any asset where:
- (a) the Commission has issued directions for the purposes of this clause 9 containing a general consent (whether or not subject to conditions) to:
    - (i) the transactions of a particular description, and/or



- (ii) the Transfer or relinquishment of Operational Control over assets of a particular description, and/or
    - (iii) the Transfer or relinquishment of Operational Control in accordance with any conditions to which the consent is subject, or
  - (b) the Transfer or relinquishment of Operational Control in question is mandated under any other law; or
  - (c) the asset in question was acquired and used by the Distribution Licensee exclusively or primarily in connection with any Other Business and does not constitute a legal or beneficial interest in land, or otherwise form part of the Distribution System or is not otherwise an asset required for the Licensed Business.
- 9.5 The Distribution Licensee shall be entitled to utilise the assets as a means of facilitating financing its investment requirement or including collateral for debt financing, securitisation of receivables etc. for the Licensed Business subject to the conditions:
- (a) that the Distribution Licensee will inform the Commission about such arrangements at least 15 days prior to the effective date of the relevant agreements;
  - (b) the Distribution Licensee acts in a prudent and reasonable manner in such utilisation of assets; and
  - (c) the Distribution Licensee retains the Operational Control over assets in the Distribution System.
- 9.6. Notwithstanding anything contained in this clause 9 in case of any emergency condition, the Distribution Licensee may transfer the assets subject to the condition that the Distribution Licensee shall immediately after such a transaction seek post-facto approval of the Commission giving the detailed facts about the emergency and the details of the transaction entered into. It shall be the obligation of the Distribution Licensee to establish to the satisfaction of the Commission of the presence of emergency condition necessitating the transfer of the assets.

**10. PAYMENT OF LICENCE FEES**

- 10.1 Within such period as the Commission may direct , the Distribution Licensee shall pay to the Commission the Licence Fees, initial and periodic, mentioned in the Special condition in such manner as the Commission may direct in the said Special Condition
- 10.2 Where the Distribution Licensee fails to pay to the Commission any of the fees due under clause 10.1 by the due dates:
- (a) without prejudice to other obligations, the Distribution Licensee shall be liable to pay interest on the outstanding amount at a simple interest rate of 1.5 percent per month, the interest being payable for the period beginning on the day after which the amount became due, and ending on the day on which the payment is made to the Commission in cleared funds; and
  - (b) in the event of continued default by the Distribution Licensee, the Commission may revoke the Distribution Licence..
- 10.3 The Distribution Licensee shall be entitled to take into account any fee paid by it under this clause 10 excluding however the interest for delayed payment as an expense and payment of penalty, fines and charges paid by the licensee in the determination of aggregate revenues to be charged to the tariffs.

**11. TERMS OF REVOCATION**

- 11.1 Subject to the provisions of Section 19 of the Act and the Regulations framed there under, the Commission may, at any time initiate proceedings against the Distribution Licensee for revocation of the Distribution Licence and if satisfied in such proceedings of the grounds for revocation and the public interest, revoke the Distribution Licence:
- (a) where the Distribution Licensee in the opinion of the Commission, makes wilful and prolonged default in doing anything required of him by or under the Act or the State Act or the rules or regulations made thereunder;
  - (b) where the Distribution Licensee violates any of the terms or conditions of his licence the breach of which is expressly declared by such licence to render it liable to revocation;

(c) where the Distribution Licensee fails, within the period fixed in this behalf by his licence, or any longer period which the Commission may have granted therefor-

(i) to show, to the satisfaction of the Commission, that he is in a position to fully and efficiently discharge the duties and obligations imposed on him by his licence; or

(ii) to make deposits or furnish the security, or pay the fees or other charges required by his licence;

(d) where in the opinion of the Commission the financial position of the Distribution Licensee is such that he is unable to fully and efficiently discharge the duties and obligations imposed on him; and .

(e) where the Distribution Licensee has failed to comply with all the Regulations, Codes, and Standards and also orders and directions of the Commission or otherwise has committed an act which renders Distribution Licence revocable on any other grounds stated in the Act or the State Act or the Rules or Regulations framed thereunder.

11.2 Where in its opinion the public interest so requires, the Commission may, on application, or with the consent of the Distribution Licensee, revoke his licence as to the whole or any part of his area of Distribution upon such terms and conditions as it thinks fit.

11.3 Before revoking a Distribution Licence the Commission shall, if in its opinion consider necessary, refer the matter to the State Government and agree on an alternate arrangement to be made for discharging the duties of the Distribution Licensee.

## **12. AMENDMENT OF LICENSE CONDITIONS**

These General Conditions of License may be altered or amended by the Commission under Section 18 of the Act at any time if it is in public interest . For any such alteration or amendment, the following provisions shall have effect:

(a) where the Distribution Licensee has made an application under Sub-Section (1) of Section 18 of the Act proposing any alteration or amendment in the Conditions of License, the Distribution Licensee shall publish a notice of such application with such particulars and in such manner as may be directed by the Commission;

(b) in the case of an application proposing alteration or modification in the Area of Activity comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the alteration or modification shall be made only with the consent of the Central Government;

(c) where any alteration or amendment in a licence is proposed to be made otherwise than on the application of the Distribution Licensee, the Commission shall publish the proposed alteration or amendment with such particulars and in such manner as the Commission may consider to be appropriate;

(d) the Commission shall not make any alteration or amendment unless all suggestions or objections received within thirty days from the date of the first publication of the notice have been considered by the Commission.

### **13. DISPUTE RESOLUTION**

13.1 The Commission shall be entitled to act as arbitrator or nominate person(s) as arbitrator(s) to adjudicate and settle disputes between the Distribution Licensee and any other licensee or between the Distribution Licensee and a generating company in pursuance of clause (f) of Sub-Section (1) of Section 86 read with Section 158 of the Act and Regulations of the Commission.

13.2 The arbitration proceedings for disputes under clause 13.1 above may be commenced and conducted by the Commission or the disputes may be referred to the arbitration of others, as the case may be, in accordance with Chapter III of the Conduct of Business Regulations specified by the Commission.

### **14. COMPLIANCE WITH THE GRID CODE**

14.1 The Distribution Licensee shall comply with the provisions of the Grid Code in so far as it is applicable to the operation of the Distribution System or otherwise to any of the activities of the Distribution Licensee.

14.2 The Commission may, after consultation with any affected Generating Companies, the Transmission Licensee, the State Transmission Utility, the State Load Despatch Centre and Electricity Traders, issue directions relieving the Distribution Licensee of obligation under clause 14.1 in respect of such parts of the Grid Code and to such extent as may be ordered by the Commission.

14.3 Till such time the Grid Code is approved by the Commission, the Distribution Licensee shall comply with the Interim Grid Code.

## **15. DISTRIBUTION (CONDITIONS OF SUPPLY) CODE & DISTRIBUTION CODE**

15.1 The Distribution Licensee shall abide by the Distribution (Conditions of Supply) Code and Distribution (Planning and Operation) Code.

15.2 (a) The Distribution (Conditions of Supply) Code may amongst others provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply for non payment thereof, restoration of supply of electricity, tampering, distress or damage to electrical plant, electric lines or meter, entry of distribution licensees to any person acting on his behalf for disconnecting supply and removing the meter, entry for replacing, altering or maintaining electric lines or electrical plant or meter.

(b) The Commission may, at the request of the Licensee, issue directions relieving the Licensee of its obligations under the Distribution (Conditions of Supply) Code in respect of such parts of the Licensee's Distribution System and to such extent as may be directed by the Commission.

15.3 In addition to the Distribution (Conditions of Supply) Code the Commission may from time to time approve at the request of the Distribution Licensee other conditions applicable for supply of electricity by the Distribution Licensee in the area of Distribution.

15.4 The Distribution Code may amongst others, cover all material technical aspects relating to connections, and the operation and use of the Distribution System including the operation of the electrical lines and electrical plant and apparatus connected to the Distribution System in so far as relevant to the operation and use of the Distribution System and shall include, but not be limited to, the Distribution Planning and connection code containing:

- (a) planning code describing the plan for laying the Distribution lines and the service lines in the Area of Supply, the technical and design criteria and procedures to be applied by the Licensee in the planning and development of the Licensee's Distribution System; and
  - (b) connection conditions describing the technical, design and operational criteria to be complied with by any Person connected or seeking connection with the Licensee's Distribution System; and the Distribution operating code specifying the conditions under which the Licensee shall operate the Licensee's Distribution System and under which Persons shall operate their plant and/or Distribution System in relation to the Licensee's Distribution System, in so far as necessary to protect the security and quality of supply and safe operation of the Licensee's Distribution System under both normal and abnormal operating conditions.
- 15.5 The Distribution (Planning and Operation) Code shall be designed so as to permit the development, maintenance and operation of an efficient, co-ordinated and economical Distribution System.
- 15.6 The Distribution Licensee shall, till the Distribution (Conditions of Supply) Code or Distribution Code comes into force, follow the same practices which has been followed by the supply Licensees in the State with such modifications as may be directed or permitted by the Commission.
- 15.7 The Distribution Licensee shall from time to time, as appropriate, review the Distribution Code and its implementation in consultation with the Transmission Licensee, Trading Licensee, Generating Companies and such other Persons as the Commission may order. The Licensee shall also undertake such review as and when directed to do by the Commission. Following any such review, the Licensee shall send to the Commission:
- (a) a report on the outcome of such review;
  - (b) any proposed revisions to the Distribution Code as the Licensee (having regard to the outcome of such review) reasonably thinks fit for the achievement of the objectives of the Distribution Code and this Licence; and
  - (c) all written representations or objections received during such review.
- 15.8 All revisions to the Distribution Code shall require approval from the Commission.

- 15.9 The Licensee shall make available to any Person requesting for it, copies of the Distribution Code and Distribution (Conditions of Supply) Code and practices thereto in force at the relevant time, at a price not exceeding the reasonable cost of duplicating it.
- 15.10 A compilation of the existing codes and practices relating to construction of the Licensee's Distribution System and its Distribution facilities shall be filed with the Commission by the Licensee within 90 days of the grant of this Licence. The Licensee shall follow the existing codes and practices with such modification as the Commission may direct from time to time. The construction practices shall be reviewed and upgraded by the Licensee from time to time, as appropriate, based on relevant technological improvements and changes.
- 15.11 The Distribution Licensee shall duly comply with the following:

## **CONSUMER SERVICE**

### **A Code of Practice on Payment of Bills**

- (a) The Licensee shall, within 90 days after grant of Licence, prepare and submit to the Commission, for its approval, a code of practice concerning the payment of electricity bills by Consumers and including appropriate guidance for the assistance of such Consumers who may have difficulty in paying such bills, and procedures for disconnecting in the event of non payment by the consumer. In granting the approval, the Commission may make such modifications, as it considers necessary to the code of practice.
- (b) The Commission may, upon receiving a representation or otherwise, require the Distribution Licensee to review, the code of practice and the manner in which it has been implemented with a view to determine whether any modification should be made to it or to the manner of its implementation.
- (c) The Distribution Licensee shall, in consultation with such other Persons as the Commission may direct review and submit any revision to the code of practice that it wishes to make, to the Commission for its approval, including any representation received by the Distribution Licensee and not accepted by it. The Commission may modify the code of practice concerning payment of bills as it considers necessary.
- (d) The Distribution Licensee shall:

- (i) draw to the attention of Consumers, in such manner as the Commission may direct, the existence of the code of practice and each substantive revision of it and how they may inspect or obtain a copy of the code of practice in its latest form;
  - (ii) make a copy of the code of practice, revised from time to time, available for inspection by members of the public during normal working hours; and
  - (iii) provide an updated copy of the code of practice revised from time to time to each new Consumer and to any other Person who requests for it at a price not exceeding the reasonable cost of duplicating it.
- (e) The Distribution Licensee shall comply with the existing practice and procedures with respect to the payment of electricity bills by Consumers with such modifications as the Commission may direct, until the code of practice on payment of bills by Consumers, as mentioned in this paragraph is adopted with the approval of the Commission.

**B. Complaint Handling Procedure:**

- (a) The Distribution Licensee shall establish a forum for redressal of grievances of the consumers in accordance with the guidelines issued by the Commission under Section 42 of the Act.
- (b) The Distribution Licensee shall within reasonable time, as directed by the Commission, after the Licence becomes effective and with approval of the Commission, notify a procedure for handling complaints from Consumers of the Licensee in addition to the forum for redressal of grievances. The Commission may hold consultations with the State Advisory Committee or a Person or body of Persons, who the Commission considers as representing the interest of the Consumers likely to be affected and make such modification of the procedure, as it believes necessary before granting approval to the consumer complaints.
- (c) The Commission may, upon receiving a representation, or otherwise, require the Distribution Licensee to review the complaint handling procedure prepared and the manner in which it has been implemented, with a view to determine whether any modification should be made to it or to the manner of its implementation.



- (d) Any procedure so established, including any revisions to it, shall notify the periods within which it is intended that different kinds of complaint should be processed and resolved.
- (e) The Distribution Licensee shall submit to the Commission for its approval any revision proposed to be made to the procedure established.
- (f) The Distribution Licensee shall:
  - (i) draw to the attention of Consumers, in such manner as the Commission may direct, the existence of the complaint handling procedure and each substantive revision of it and how the Consumers may inspect or obtain copies of such procedure in its latest form.
  - (ii) make a copy of its complaint handling procedure, revised from time to time, available for inspection by members of the public at the relevant offices of the Licensee during normal working hours; and
  - (iii) provide a copy of the complaint handling procedure revised from time to time to each new Consumer, and to any other Person who requests for it at a price not exceeding the reasonable cost of duplicating it.

**C. Consumer Rights Statement**

- (a) The Distribution Licensee shall, within a reasonable period of time as directed by the Commission after the Licence become effective or such other time as the Commission may allow, prepare and submit to the Commission for approval, a consumer rights statement, explaining to Consumers their rights as Consumers serviced by the Licensee. The Commission may, upon holding such consultation with the State Advisory Committee, and such other Persons or bodies of Persons who the Commission considers as representing the interests of Consumers likely to be affected by it, and may make such modification of the statement, as it considers necessary in public interest.
- (b) The Commission may, upon receiving a representation or otherwise, require the Distribution Licensee to review the consumer rights statement prepared and the manner in which it has been implemented with a view to determining whether any modification should be made to it or to the manner of its implementation.

(c) The Distribution Licensee shall submit any revision to the consumer rights statement that it wishes to make to the Commission for its approval, including any representation received by the Distribution Licensee and not accepted by it. The Commission may modify the existing consumer rights statement, as it considers necessary.

(d) The Distribution Licensee shall:

(i) draw to the attention of Consumers, in such manner as the Commission may direct, the existence of its consumer rights statement and each substantive revision of it and how they may inspect or obtain a copy of such consumer rights statement in its latest form.

(ii) make a copy of its consumer rights statement, revised from time to time, available for inspection by members of the public at its offices during normal working hours; and

(iii) provide a copy of the consumer rights statement, revised from time to time, to all new Consumers to be served by it, and to any other Person who requests for it at a price not exceeding the reasonable cost of duplicating it.

15.12 The Distribution Licensee shall duly comply with the Standards as the Commission may direct from time to time, for the performance of the duties of the Distribution Licensees under the Act or the State Act.

## **16. DISTRIBUTION SYSTEM PLANNING AND SECURITY STANDARDS, DISTRIBUTION SYSTEM OPERATING STANDARDS, OVERALL PERFORMANCE STANDARDS**

16.1 The Distribution Licensee shall comply with the Existing Distribution System Planning, Security Standards and the Existing Distribution System Operating Standards, with such modifications as the Commission may direct, until the Distribution System Planning, Security Standards and Distribution System Operating Standards proposed by the Distribution Licensee are approved by the Commission.

16.2 The Distribution Licensee shall plan, develop and operate its Distribution System in accordance with the Distribution System Planning and Security Standards together with the Distribution Code as approved by the Commission;

- 16.3. (a) The Distribution Licensee shall, within such time as the Commission may direct in the Specific Conditions or otherwise submit to the Commission the existing planning and security standards and the operating standards for its Distribution System and the existing planning and security standards and operating standards relating to generation capacity connected to its Distribution System being followed by the Distribution Licensee. Such existing standards, with such modification as the Commission may direct, shall continue to remain in effect until the new standards approved by the Commission.
- (b) The Distribution Licensee shall, within such time as the Commission may direct in the Specific Conditions or otherwise, prepare, in consultation with the Suppliers, Generating Companies, Central Transmission Utility, State Transmission Utility, Regional Power Committee and such other person as the Commission may direct, and submit to the Commission for approval the Distribution Licensee's proposal for Distribution Planning and Security Standards and Distribution Operating Standards, and Operating Standards in accordance with these General Conditions
- (c) The Distribution Planning and Security Standards and Distribution Operating Standards, and the Operating Standards submitted by the Distribution Licensee pursuant to this clause 16.3, with such modifications as the Commission may require, shall take effect from such dates as the Commission may direct.
- 16.4 The Distribution Licensee shall not be in breach of its obligations if the failure to meet the Distribution Planning and Security Standards or the Distribution Operating Standards is due to Force Majeure, provided that, the Distribution Licensee has used its reasonable efforts, to comply with the Distribution Planning and Security Standards or the Distribution Operating Standards, as the case may be.
- 16.5 The Distribution Licensee shall, in consultation with Suppliers, the Generating Companies, the Central Transmission Utility, the State Transmission Utility, the Regional Power committee and such other persons as the Commission may order, review the standards and their implementation on each occasion a review of the Grid Code is undertaken. Following any such review, the Distribution Licensee shall send to the Commission:
- (a) a report on the outcome of such review; and
- (b) any revision which the Distribution Licensee proposes to make to such documents from time to time (having regard to the outcome of such review); and

- (c) any written representations or objections (including those not accepted by the Distribution Licensee) from Suppliers, the Generating Companies, the Central Transmission Utility, the State Transmission Utility, the Regional Power committee and such other persons as the Commission may order arising during the consultation process; Provided that the Commission may, upon application of the Transmission Licensee, relieve the Distribution Licensee from the obligation to review the standards and their implementation, to such extent as shall be given in directions issued to the Distribution Licensee by the Commission for the purposes of this condition.
- 16.6. The Commission may, having regard to any written representations and objections received and following such further consultation as the Commission may consider appropriate, issue directions requiring the Distribution Licensee to revise the standards in such manner as may be given in the directions. The Distribution Licensee shall duly carry out the revisions directed by the Commission
- 16.7 The Distribution Licensee shall, within 3 months of the end of each financial year, submit to the Commission a report indicating the performance of the Distribution Licensee's Distribution System during the previous financial year. The Distribution Licensee's compliance with the Standards of Performance may be measured, in part, by the Licensee's adherence to the Distribution Code, Distribution (Conditions of Supply) Code and other codes and Regulations set forth by the Commission. The Distribution Licensee shall, if required by the Commission, publish a summary of the report in a manner approved by the Commission.
- 16.8 The Distribution Licensee shall conduct its Licensed Business in the manner which it reasonably considers to be the best to achieve the Performance Standards in connection with provision of Supply services and the promotion of the efficient use of electricity by Consumers, as may be directed by the Commission by a general or special order.
- 16.9 The Distribution Licensee shall provide annually, information to the Commission as to the means by which it proposes to achieve the Performance Standards and other standards applicable to the Distribution Licensee.

## **17. OBLIGATION TO CONNECT CONSUMERS AND PUBLIC LAMPS**

- 17.1 Subject to the other provisions of these conditions, the Distribution Licensee shall on the application of the owner or occupier of any premises within the Area of Supply, give connection to the Distribution Licensee's Distribution System for the purposes of providing Supply of electricity

to such premises, in accordance with the applicable regulations, directions and orders of the Commission.

17.2 The Distribution Licensee shall abide by the rules made by the State Government in terms of laying down or placing electric supply lines. The rules framed by the State Government will prescribe the cases and circumstances in which consent in writing is required from the Appropriate Government, local authority, owner or occupier, as the case may be, for carrying out the works, the nature and period of notice to be given by the Distribution Licensee before carrying out works, procedures and manner of consideration of objections and suggestions, determination and payment of compensation and all such activities in accordance to Section 67 of Act

17.3 Where, after Distribution mains have been laid down under the provisions of clause 17.1 and the supply of energy through those mains or any of them has commenced, a requisition is made by the State Government or by a local authority requiring the Distribution Licensee to supply for a period of not less than two years, energy for any public lamps within the Area of Supply, the Distribution Licensee shall supply, and save in so far as it is prevented from doing so by events of Force Majeure and operational/constraints, continue to supply energy for such lamps in such quantities as the State Government or the local authority, as the case may be, may require. The State Government or the relevant local authority, as the case may be, may require the Distribution Licensee:

- (a) to provide the mains and other equipment for public lamps; and
- (b) to use for that purpose supports, if any, previously erected or set up by it for supply of energy.

17.4 The Distribution Licensee may levy any reasonable charge/s for carrying out works/release of supply, in accordance with any procedures that may be stipulated by the Distribution Licensee and approved by the Commission as well as the provisions of the Act and the Regulations of the Commission.

## **18. OBLIGATION TO SUPPLY AND POWER SUPPLY PLANNING STANDARDS**

18.1 The Distribution Licensee shall take all reasonable steps to ensure that all Consumers connected to the Distribution Licensee's Distribution System receive a safe, economical and reliable Supply of electricity as provided in the Distribution Code, and other guidelines issued by the Commission in accordance with the provisions of the Act, the State Act, Rules and Regulations issued thereunder.

- 18.2 The Distribution Licensees shall be entitled to utilise the soil, subsoil and areas pertaining to public rights of way, streets, public squares and other assets in the public domain, as well as to cross rivers, bridges, railways, electrical and communication lines, subject to the provisions of Section 67 of the Act.
- 18.3 The Distribution Licensee shall:
- (a) forecast annually the demand for power within the Area of Supply in each of the next succeeding 10 years;
  - (b) prepare and submit such forecasts to the State Transmission Utility in accordance with the guidelines issued by the Commission from time to time; and
  - (c) co-operate with the Transmission licensees, the State Transmission Utility and the State Load Despatch Centre and other Licensees in the preparation of power demand forecasts for the state of Orissa .
- 18.4 Subject to the foregoing clauses, the Distribution Licensee shall purchase electricity from the Generating Companies, Electricity Traders and others as consented to by the Commission in quantities which the Distribution Licensee considers sufficient to meet the expected demand of the Licensee's Consumers.
- 18.5 The Distribution Licensee shall, within three months after this Licence has come into force or such other time as the Commission may allow, prepare and submit to the Commission for approval, a disaster management plan, to address emergencies that may arise in connection with the operation of the Distribution Licence. For purposes of this clause, an emergency shall mean any condition and/or situation that materially and adversely.
- (a) affects the ability of the Licensee to maintain safe, adequate and continuous operation of all or any part of the Licensed Business; or
  - (b) endangers the security of any person, plant, or other life, equipment or property.

## **19 POWERS TO RECOVER EXPENDITURE, RECOVER SECURITY**

The Distribution Licensee shall be entitled to recover tariff , charges, fee, etc. and require security deposit to be made for supply of electricity or for provision of services, in accordance with the provision of the Act and the Rules and Regulations for the purpose framed under the Act.

**20 USE OF METERS**

20.1 The Distribution Licensee shall comply with the requirements of the Act and the Regulations, Directions and Orders of the Commission in regard to supply of electricity through meter.

20.2 The Distribution Licensee may require the consumer to give security for the price of a meter and enter into an agreement for hire thereof, unless the consumer elects to purchase a meter.

**21. CONNECTION AND USE OF SYSTEM**

The Distribution Licensee shall make such arrangements for open access to the use of his Distribution System by Users subject however to the availability of the adequate Distribution capacity in the system in accordance with open access regulations notified by the Commission and further subject to the User agreeing to pay all applicable charges including the Distribution charges and surcharges wherever applicable.

**22. POWER PROCUREMENT**

22.1 The Distribution Licensee shall satisfy the Commission as to the need for additional power procurement on a long-term basis and in the case of short term power purchase the circumstances where such short term power purchase will become necessary

22.2 The Distribution Licensee shall not enter into a binding or enforceable contractual commitment till the Commission by a general or special order approves the procurement of electricity by the Distribution Licensee

22.3 The Distribution Licensee shall satisfy the Commission that the electricity procured under long term power purchase otherwise than through a competitive bidding process or any short term power purchase is of least cost or economical in the prevalent circumstances and that the Distribution Licensee has made prudent and best efforts to minimise the cost of purchase.

22.4 The Commission may not permit any such short term or long term purchase if the manner or method proposed for such procurement of electricity is not conducive to the objective of least cost purchase or for any other reason the purchase is not economical or efficient.

22.5 The short-term power purchase by the Distribution Licensee may be undertaken in such a manner as the Commission may from time to time direct by a general or special order.

22.6 The Distribution Licensee shall forecast the demand for electricity for his business and formulate proposals in coordination with the generating companies, Licensee companies, other licensees, authorities and other concerned persons. The Distribution Licensee shall file with the Commission power procurement plan to meet the demand in such a manner as the Commission may direct.

### **23. EXPECTED REVENUE CALCULATION AND TARIFFS**

23.1 The Distribution Licensee shall calculate the expected revenue from charges which it is permitted to recover, in accordance with the provisions of the Act, the State Act, the Regulations of the Commission, the tariff terms and conditions and other guidelines, orders and directions issued by the Commission from time to time.

23.2 The Distribution Licensee shall file the Expected Revenue Calculation and the application containing tariff proposals in the manner provided in the Conduct of Business Regulations and consistent with the Regulations under Section 61 of the Act

23.3 Unless otherwise provided in the Specific Conditions or in any order or direction made by the Commission the Distribution Licensee shall every year, not later than 30th November, submit to the Commission (i) a Statement with full details of its expected aggregate revenues and cost of service for the ensuing financial year (including financing costs and its proposed return on equity) for its Licensed Business, in accordance with the provisions of the Act and the regulations, guidelines and orders issued by the Commission from time to time and (ii) the annual investment plan giving specific details of the investment which the Distribution Licensee proposes to make in the ensuing financial year and which the Distribution Licensee desires to be covered under the revenue requirements in the ensuing financial year with appropriate references to schemes, if any, already approved by the Commission of which such investments form a part. The Distribution Licensee shall prepare and submit to the Commission the Statement and the investment details referred to in the above separately for each of its Licensed Businesses and Other Businesses.

23.4 The Distribution Licensee shall, along with the Expected Revenue Calculation or at such other time and periodicity the Commission may specifically permit file the application containing tariff proposals and the revision to the existing tariffs approved by the Commission to match the revenue requirements of the Distribution Licensee



23.5 The amount that the Distribution Licensee is permitted to recover from its tariffs shall be the amount that the Commission determines and approves in accordance with the provisions of the Act, State Act and the Regulations of the Commission

23.6 The Distribution Licensee may apply to the Commission to amend its tariffs in accordance with the Act and applicable Regulations and directions of the Commission.

## **24 PROVISION OF SUBSIDIES TO CERTAIN CONSUMERS**

24.1 If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the Commission, the State Government shall, notwithstanding any direction which may be given under Section 108 of the Act, pay, in advance and in such manner as may be directed by the Commission, the amount to compensate the person affected by the grant of subsidy in the manner the Commission may direct.

24.2 Provided that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions of the Act and Regulations of the Commission, and the licensee shall charge to the consumers the tariff fixed by the Commission from the date of issue of Order(s) by the Commission in this regard.

## **25. POWER TO ENTER PREMISES AND TO REMOVE FITTINGS OR OTHER APPARATUS OF LICENSEE**

25.1 In accordance to Section 163 of the Act, the licensee or any person duly authorised may, at reasonable time, and on informing the occupier of his intent, enter any premises to which supply has been made or over which electric lines and works have been lawfully placed for the purpose of

(a) Inspecting, testing, repairing or altering electric supply lines, meters, fittings belonging to the licensee; or

(b) Ascertaining the amount of electricity supplied; or

(c) Removing such lines, fittings, works where electricity supply is not required.

25.2 The Licensee or its authorised person may on a special order of the Executive Magistrate give a notice not less than twenty four hours in writing to the occupier for entering any premises for purposes mentioned in sub-clause 24.1 above.

25.3 The licensee may, on refusal of entry by the occupier of the premises, cut off power supply as per Section 163 of the Act till such time the refusal continues but for no longer than that .

## **26. DISCONNECTIONS**

26.1 The Licensee shall give 15 days clear notice in writing prior to disconnection

26.2 The licensee shall not cut off supply if the person deposits under protest

- (a) The amount equal to the sum claimed from him or
- (b) Electricity charges due from him calculated on the basis of average charge for electricity supplied to him during the preceding 6 months whichever is less pending disposal of the dispute

26.3 The licensee shall have to show such sum as recoverable continuously for a period of two years for the electricity supplied and act as per Section 56(2) of the Act.

26.4 Pursuant to Sections 126, 127, 135-140 of the Act, the Licensee shall have the powers and authority to take appropriate actions for:

- (a) Metering at the point of supply of electricity;
- (b) Revenue realisation;
- (c) Implementing credit control procedure as approved by the Commission;
- (d) Prosecution for theft;
- (e) Prevention of meter tampering;
- (f) Prevention of diversion of electricity, and
- (g) Prevention of unauthorised use of electricity; and
- (h) All such similar matters affecting Distribution or Retail Supply.

**27. MISCELLANEOUS**

- 27.1. All issues arising in relation to interpretation of these General Conditions and as to the terms and conditions thereof shall be a matter for the determination of the Commission and the decision of the Commission on such issues shall be final, subject only to the right of appeal under Section 111 of the Act.
- 27.2. The Commission may at the time of grant of Distribution Licence waive or modify the application of any of the provisions of these General Conditions either in the order granting the licence or by Specific Conditions made applicable to a specific Distribution Licensee.
- 28.** The General conditions contained herein shall apply to all applicants for grant of Distribution Licence after the coming into force of the Act and also to all deemed Distribution Licensees under Section 14 proviso first, second, third and fifth of the Act.

**APPENDIX - 4B**

(See Regulation 31)

ORISSA ELECTRICITY REGULATORY COMMISSION  
**GENERAL CONDITIONS OF TRANSMISSION LICENCE**

**1. DEFINITIONS**

1.1. Unless the context otherwise requires in these general conditions;

**“Accounting Statement”** means for each financial year, accounting statements for the Licensed Business comprising a profit and loss account, a balance sheet and a statement of sources and application of funds, together with notes thereto as detailed under the Companies Act, 1956 (1 of 1956) and such other particulars and details in the manner as the Commission may direct from time to time. If the Transmission Licensee engages in any business or activity in addition to the Licensed Business, the accounting statements shall comply with the regulations of the Commission dealing with the treatment of Other Business of Transmission Licensees and show separately the amounts of any revenue, cost, asset, liability, reserve or provision, which has been either:

charged from the Licensed Business to any Other Business or vice versa together with a description of the basis of that charge; or

determined by apportionment or allocation between the Licensed Business and any Other Business of the Transmission Licensee together with a description of the basis of the apportionment or allocation.

**“Act”** means the Electricity Act, 2003 (36 of 2003)

**“Annual Accounts”** means the accounts of the Transmission Licensee prepared in accordance with the provisions of the Companies Act, 1956 and/or in such other manner as may be directed by the Commission in terms of the provisions of the Act;

**“Area of Activity”** means the area of activity stated in the Transmission Licence within which the Transmission Licensee is authorised to establish, operate and maintain transmission lines;

**“Auditors”** means the Transmission Licensee’s auditors holding office in accordance with the requirements of Sections 224 to 234A or Section 619 as appropriate, of the Companies Act 1956 (1 of 1956);

**“Authorised”**, in relation to any Person, business or activity, means authorised by licence granted under Section 14 of the Act or deemed to be granted under the first second third and fifth proviso to Section 14 of the Act or exemption granted under Section 13 of the Act and the regulations of the Commission;

**“Commission”** means the Orissa Electricity Regulatory Commission;

**“Distribution”** means the conveyance of electricity by means of a Distribution System;

**“Distribution Business”** means Authorised business of a distribution licensee to operate and maintain a distribution system for supplying electricity to the consumers in his Area of Supply;

**“Distribution Code”** means the Distribution (Planning and Operation) Code governing all material technical aspects relating to connections to and the operation and use of the Distribution System as approved by the Commission;

**“Existing Transmission System Planning and Security Standards”** means the Transmission Licensee’s standards for system planning and security of the Transmission System as of the date of the grant of Transmission Licence and in the event of a new business such standards applicable to the other or previous Transmission Licensees in the State;

**“Existing Transmission System Operating Standards”** means the Transmission Licensee’s standards for operating the Transmission System as of the date of the grant of the Transmission Licence and in the event of a new business such standards applicable to the other or previous Transmission Licensees in the State;

**“Force Majeure”** means events beyond the reasonable control of the Licensee, including, but not limited to earthquakes, cyclones, floods, storms, adverse weather conditions, war, terrorist attacks, civil commotion or other similar occurrences that leads to any act that would involve a breach of relevant laws or regulations concerned with electrical safety;

**“Generator Interconnection Facilities”** means electrical lines, transformers, bus-bars, switch-gear, plant or apparatus utilised to enable access to a Transmission System or Distribution System by the Generating Set(s);

**“Grid Code”** means the grid code developed by the State Transmission Utility approved by the Commission, covering all material technical aspects relating to connections to and the operation and use of a Transmission System, or (in so far as relevant to the operation and use of a Transmission System) the operation of electric lines and electrical plant connected to the Transmission System, the Distribution Systems, or the system of any Supplier, and shall include the Interim Grid Code;

**“Holding Company”** shall have the same meaning as in Section 4 of the Companies Act, 1995.

**“Interim Grid Code”** means the existing practices and procedures followed by the State Transmission Utility, as the case may be for operating the Transmission System as of the date of issue of the Terms and Conditions of Transmission Licence;

**“Intervening Transmission Facilities”** means the electric lines owned or operated by a Transmission Licensee where such electric lines can be utilized for transmitting electricity for and on behalf of another licensee at his request and on payment of a tariff or charge

**“Licence”** means the licence under Section 14 of the Act under which the Licensee is Authorised to conduct the Licensed Business;

**“Licensed Business”** means the business of Transmission of electricity as authorised under the licence;

**“Major Incident”** means an incident associated with the Transmission of electricity, which results in a significant interruption of service, substantial damage to equipment, or loss of life or significant injury to human beings, or as otherwise directed by the Commission and shall also include any other incident which the Commission expressly declares to be a major incident;

**“Operational Control”** means possessing the authority to make operational decisions such as commissioning and utilisation of units, service lines and equipment;

**“Other Business”** means business of the Transmission Licensee other than the Licensed Business;

**“Performance Standards”** means the standards as may be determined by the Commission pursuant to Section 57 of the Act;

**“Person”** shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;

**“Regulations”** means the regulations made by the Commission, under the provisions the Act or the State Act;

**“Specific Conditions”** means the conditions in addition or in variation to the General Conditions which the Commission may lay down specifically for a Distribution Licensee;

**“State Act”** means the Orissa Electricity Reform Act, 1995;

**“State Government”** means the Government of the State of Orissa;

**“Subsidiary”** shall have the same meaning as in Section 4 of the Companies Act 1956 (1 of 1956);

**“Transfer”** shall include the sale, exchange, gift, lease, licence, loan, securitisation, mortgage, charge, pledge or grant of any other encumbrance or otherwise permitting of any encumbrance to subsist or parting with physical possession or any other disposition or dealing;

**“Transmission Business”** means the Authorised business of a Transmission Licensee to Transmit electricity, whether for its own account or for that of any other Person, through any system owned and/ or operated by such Licensee;

**“Transmission Licensee”** means the entity, which has been granted a Transmission Licence or is a deemed Licensee under the first, second, third or fifth proviso of Section 14 of the Act authorized to transmit electricity;

**“Transmission Operating Standards”** means the standards related to the Transmission Licensee’s operation of its Transmission System approved by the Commission;

**“Transmission Planning and Security Standards”** means the standards related to the adequacy of the Transmission Licensee’s system planning and security of its Transmission System as approved by the Commission;

**“Transmission System”** means the system consisting mainly of extra high voltage electric lines having design voltage of 33 kV and higher, owned or controlled by the Transmission Licensee, and used for the purposes of the conveyance of electricity between the switchyards of two Generating Sets or from the Switchyard of a Generating Set to a substation, or between substations, or to or from any external interconnection and includes all bays/equipment upto the interconnection with the Distribution System, and any plant, apparatus and meters owned or used in connection with the transmission of electricity, but shall not include any part of a Distribution System;

**“Use of System”** means use of the Transmission System for the transportation of electricity for any person pursuant to a contract entered into with the Transmission Licensee

**“Users”** means anyone who uses the Transmission System.

- 1.2 Words, terms and expressions occurring in these General Conditions and not defined herein above shall bear the same meaning as in the Act.

## 2. TERM:

The Transmission Licence shall come into force on the date to be mentioned by the Commission in the order granting the licence and subject to the terms and conditions of the grant of licence, shall remain in force for the period mentioned in the Order

### **3. COMPLIANCE WITH LAWS,RULES AND REGULATIONS**

- 3.1 The Transmission Licensee shall comply with the provisions of the Act, Rules, Regulations, orders and directions issued by the Commission from time to time and the provisions of all other applicable laws.
- 3.2. The Transmission Licensee shall act in accordance with this General Conditions except where the Transmission Licensee is exempted from any provisions of these general conditions at the time of the grant of licence or otherwise specifically obtains the approval of the Commission for any deviation there from.
- 3.3. The Transmission Licensee shall duly comply with the order and directions of the National Load Despatch Centre, Regional Load Despatch Centre and the State Load Despatch Centre and other statutory authorities issued in the discharge of their functions under the Act or the State Act.

### **4. ACTIVITIES OF THE TRANSMISSION LICENSEE**

- 4.1. The Transmission Licensee shall duly discharge the duties of the Transmission Licensee as provided under Section 40 of the Act.
- 4.2. The Transmission Licensee shall provide non discriminatory open access to the Transmission System for use of the Licensees, and Generating Company including the Captive Generating Plant and the Consumer subject to availability of transmission capacity in the transmission lines and in the case of use of such Transmission System for supply of electricity to consumer subject to payment of surcharge to meet the current level of cross subsidy as envisaged in Section 40 read with Sub-Section (2) of Section 42 of the Act .
- 4.3. The Transmission Licensee shall not without the prior approval of the Commission:
- (a) undertake any transaction to acquire by purchase or takeover or otherwise, the utility of any other Licensee;
  - (b) acquire any beneficial interest in any Generating Company of Generating Station;, or
  - (c) transmit electricity to any Person in the State of Orissa, not authorised to by the Commission ;



- 4.4. The Transmission Licensee shall not engage in the business of electricity Trading or directly or indirectly associate in the business of an electricity trader or the Distribution Licensee .
- 4.5. The Transmission Licensee shall provide to the other licensees intervening transmission facilities to the extent of surplus capacity available, in his Transmission System and in the event of any dispute as to the availability of the surplus capacity the same shall be determined by the Commission. The charges and terms and conditions for the intervening facilities may be mutually agreed between the Licensees and in the event of any disagreement the same shall be decided by the Commission.
- 4.6. In the event the Transmission Licensee engages in any Other Business, the same shall be subject to the following conditions
- (a) the Licensed Business and the conduct thereof by the Transmission Licensee is not prejudiced and/or adversely affected in any manner by reason of the Other Business;
  - (b) a proportion of the revenue , as may be directed by the Commission , derived from such Other Business shall be utilized for reducing the charges for Transmission and Wheeling;
  - (c) the Transmission Licensee shall prepare and keep, in respect of the Other Business activities, separate accounting records as would be required to be kept in respect of such activities as if they were carried on by a separate company, so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to such Other Business activities are separately identifiable from those of the Licensed Business;
  - (d) the Licensed Business does not subsidize in any way such Other Business nor creates encumbrance on its transmission assets in any way to support such Other Business; and
  - (e) the Transmission Licensee shall not transfer any assets utilised in the Transmission System for the purposes of Other Business activities without the prior approval of the Commission.
- 4.7. The Transmission Licensee shall seek approval of the Commission before making any loans to, or issuing any guarantee for any obligation of any Person, except when made or issued for the purposes of the Licensed Business. Loans to employees pursuant to their terms of service and trade advances in the ordinary course of business are excluded from the requirement to seek such approval.

- 4.8. The Transmission Licensee may engage any of its Subsidiaries or Holding Company or a Subsidiary of such Holding Company of the Transmission Licensee to provide any goods or services to the Transmission Licensee in connection with the Licensed Business, subject to the following conditions that:
- (a) the transaction will be on an arms-length basis and at a value that is fair and reasonable in the circumstances;
  - (b) the transaction will be consistent with any Regulations framed by the Commission relating to the provision of goods and services with respect to Licensed Business; and
  - (c) the Transmission Licensee will give 15 days' notice with details of such arrangement, to the Commission prior to commencement of such arrangement.
- 4.9. In all other cases of engagement of such Subsidiary or Holding Company or a subsidiary of the Holding Company, prior permission of the Commission will be required. Where such prior permission is required, the Transmission Licensee will file a suitable application with the Commission disclosing relevant facts. The Commission may, within 30 days of the filing of the application, seek further information in support of the application. The Commission shall generally within 30 days of such further information being submitted by the Transmission Licensee, and where no such further investigation is required, generally within 60 days of the filing of the application, allow the arrangement subject to such terms and conditions or modifications as it considers appropriate or reject the same, for reasons recorded in writing in the order to be issued by the Commission.
- 4.10. The Transmission Licensee shall not at any time assign his licence or transfer his utility, or any part thereof, by sale, lease, exchange or otherwise without the prior approval of the Commission. To obtain the approval of the Commission as aforesaid, the Transmission Licensee will file a suitable application with the Commission disclosing relevant facts in that behalf and the Commission shall dispose such application expeditiously.

## **5. ACCOUNTS**

- 5.1. Unless otherwise permitted by the Commission the financial year of the Transmission Licensee for the purposes of these General Conditions and matters relating to the Licensed Business shall run from the first of April to the following thirty-first of March.

- 5.2. The Transmission Licensee shall, in respect of the Licensed Business and any Other Business:
- (a) keep such accounting records as would be required to be kept in respect of each such business so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to the Licensed Business are separately identifiable in the books of the Transmission Licensee, from those of Other Business in which the Transmission Licensee may be engaged;
  - (b) prepare on a consistent basis from such accounting records and deliver to the Commission the Accounting Statements; namely:
    - (i) in respect of the first six months of each financial year, a Half Yearly profit and loss account, cash flow statement and balance sheet together with such supporting documents and information as the Commission may prescribe from time to time such statements and documents to be published in the manner directed by the Commission;
    - (ii) in respect of the Accounting Statements prepared, an Auditor's report for each financial year, stating whether in their opinion these statements have been properly prepared in accordance with this clause and give a true and fair view of the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to such businesses to which the statements relate; and
    - (iii) a copy of each Half Yearly profit and loss account not later than three months after the end of the period to which it relates, and copies of the Accounting Statements and Auditor's report not later than six months after the end of the financial year to which they relate.
- 5.3. The Transmission Licensee shall not normally change the basis of charge or apportionment or allocation of revenues or expenses in relation to the preparation of the Accounting Statements in respect of a financial year from those applied in respect of the previous financial year, without prior intimation to the Commission. Any change, if proposed, in the basis of charge or apportionment of revenues or expenses shall be consistent with the provisions of the Companies Act, 1956, the Accounting Standards or Rules and any guidelines issued by the Commission in this regard.

- 5.4. Where, in relation to the Accounting Statements in respect of a financial year, the Transmission Licensee has changed the basis of charge or apportionment or allocation from those adopted for the immediately preceding financial year, the Transmission Licensee shall, if directed by the Commission, (in addition to preparing Accounting Statements on those basis which it has adopted), prepare and deliver to the Commission such Accounting Statements on the basis which it applied in respect of the immediately preceding financial year.
- 5.5. Accounting Statements under clause 5.2 above shall, unless or otherwise approved or directed by the Commission:
- (a) be prepared and published with the Annual Accounts of the Transmission Licensee, in the manner provided herein;
  - (b) state the accounting policies adopted;
  - (c) be prepared in accordance with generally accepted accounting policy; and
  - (d) be prepared in the form as the Commission may stipulate from time to time;
- 5.6. The references to costs or liabilities of, or reasonably attributable to Licensed Business or Other Business shall be construed as excluding taxation, and capital liabilities which do not relate principally to such Business and interest thereon.
- 5.7. The Transmission Licensee shall ensure that the Accounting Statements in respect of each financial year prepared under clause 5.2 and the Auditor's report in respect of each financial year are publicised in such manner as the Commission may direct and are made available to any Person requesting them at a price not exceeding the reasonable cost of duplicating them.

## **6. PROVISION OF INFORMATION TO THE COMMISSION**

- 6.1. The Transmission Licensee shall furnish to the Commission without undue delay such information, documents and details related to the Licensed Business or any Other Business of the Transmission Licensee, as the Commission may require from time to time for its own purposes or for the purposes of the Government of India, State Government, the Central Commission and/or the Central Electricity Authority, the State Transmission Utility and the State Load Despatch Centre.

- 6.2. The Transmission Licensee shall duly maintain the information as the Commission may direct under Section 128 of the Act.
- 6.3. The Transmission Licensee shall notify the Commission as soon as possible the occurrence of any Major Incident affecting any part of its Transmission System and in any event, by not later than two months from the date of such occurrence:
- (a) submit a report to the Commission giving full details of the facts within the knowledge of the Transmission Licensee regarding the incident and its cause.
  - (b) in the event the report under sub-clause (a) is likely to take more than 2 months from the date of such incident, the Transmission Licensee shall within 1 month from such date of the incident submit a preliminary report with such details which the Transmission Licensee can reasonably furnish and state reasons as to why the Transmission Licensee requires more than 2 months for giving full report of such incident; and
  - (c) give copies of the report to all parties concerned with the Major Incident and to such other Persons as the Commission may direct.
- 6.4. The decision of the Commission as to what is a Major Incident shall be final. The Commission may by order, after providing an opportunity of hearing direct the Transmission Licensee to provide such amount of compensation as the Commission may direct to person(s) who suffer substantial injury or to the heirs of those who lose their lives as a result of such major incident where a Major Incident has been caused by any act of commission, omission or negligence on the part of any of the employees or agents of the Transmission Licensee.
- 6.5. The Commission at its own discretion may require the submission of a report to be prepared by an independent person at the expense of the Transmission Licensee.
- 6.6. The Transmission Licensee shall also undertake such studies as the Commission may direct it to undertake from time to time for the improvement of its Transmission Business and any other matter concerning the Transmission Business that the Commission considers necessary in the public interest to avoid the occurrence of any such major incident.
- 6.7. The Transmission Licensee shall duly inform the Commission about any incident restricting it from meeting its obligation under the licence granted including any act of omission or commission by others and steps taken by the Transmission Licensee to mitigate the effect of such incident .

- 6.8. The Commission may at any time require the Transmission Licensee to comply with the provisions of clauses as to incidents which the Commission may specifically direct and the Transmission Licensee shall be obliged to comply with the same notwithstanding that such incidents are not Major Incidents; provided that the time limits specified in clause shall commence from the date that the Commission notifies Transmission Licensee of such requirement.
- 6.9. The Transmission Licensee shall submit a Business Plan within three months of Transmission Licence coming in force for such period as the Commission may direct and shall update such plan annually. The Business Plan shall contain year wise load growth, year wise Transmission loss reduction proposal along with specific action plan, metering plan for metering interface points, investment plan, treatment of previous losses, debt restructuring plan, cost reduction plan, projected profit and loss account, projected balance sheets, projected cash flow statements and projected important financial parameters.
- 6.10. The Commission may require the Transmission Licensee to intimate by the end of first quarter of each financial year the progress made in implementing the Business Plan of the previous financial year with the comparison of actual implementation vis-à-vis the Plan as approved by the Commission. The licensee shall post the accounting statements in respect of each financial year along with their auditor's comments on their web-site.

## **7. INVESTMENTS**

- 7.1 Unless otherwise directed by the Commission, every licensee shall obtain prior approval of the Commission for making investment in the licensed business if such investment is above the limits laid down in clause 7.8 of these General Conditions.
- 7.2 The Transmission Licensee shall duly comply with the Regulations, guidelines, directions and orders the Commission may issue from time to time in regard to the investments to be made in the Transmission Business.
- 7.3 The Transmission Licensee shall submit to the Commission Investment Plans as a part of the business plan under clause 6.9 above giving details of investment schemes to be undertaken during the concerned period for the approval of the Commission. The Transmission Licensee shall demonstrate to the satisfaction of the Commission that:
- (a) there is a need for such Investments in the Transmission System contained in the Investment Plan;

(b) the Transmission Licensee has made techno economic analysis and environmental aspects of all viable alternatives to the proposal for investing in or acquiring new Transmission System assets to meet such need;

7.4 In the application for investment approval, the licensee shall furnish the following information or particulars.

(a) A detailed project report containing techno economic analysis and environmental aspects of the investment together with the outline of the works to be undertaken, the salient features and particulars demonstrating the need for investment;

(b) The project cost together with the cost benefit analysis;

(c) Whether the investment is in a new project or for expansion or up-gradation of an existing system;

(d) Sanctions and statutory clearances required for execution of the project and status of such sanctions and statutory clearances;

(e) Phasing of investment over the financial years and commissioning schedule;

(f) The manner in which investments will be capitalised for the purposes of inclusion in the revenue requirements of the Licensee;

(g) Constraints which the Licensee may face in making the investments or in implementing the project including constraints on information available;

(h) Resource mobilisation and financial plans for meeting the investment;

(i) Process for inviting and finalizing tenders for procurement of equipment, material and /or services relating to investment, in accordance with a transparent tendering procedure as may be approved by the Commission; and

(j) Such other particulars as the Commission may from time to time direct.

7.5 (a) The licensee and other applicants seeking investment approval shall furnish information, particulars, documents as may be required by the Commission staff, consultants and experts appointed by the Commission for the purpose and allow them access to the records and documents in the power, possession or custody of the licensee.

(b) The licensee shall cooperate with the Commission's staff, consultants and experts to enable them to discharge their functions and to submit a report to the Commission on the outcome of their findings.

7.6 The Transmission licensee shall intimate, by the end of the first quarter of each financial year

- (a) the annual investment plan with details of investment schemes to be carried out during the financial year ;and
- (b) the progress made in implementing the annual investment plan of the previous financial year with the comparison of actual implementation vis-à-vis the plan as approved by the Commission for the concerned period.
- 7.7 The Transmission Licensee shall make the investments in a prudent manner being guided by the duty to build, maintain and operate an efficient, co-ordinated and economical Transmission System in the State.
- 7.8 The Transmission Licensee shall not undertake schemes involving Major Investments, not covered under the Investment Plan approved by the Commission under clause 7.3 above without the prior approval of the Commission, and for such approval the Transmission Licensee shall demonstrate to the satisfaction of the Commission the factors mentioned in clause 7.3 above.
- 7.9 The Transmission licensee shall invite and finalise tenders for procurement of equipment, material and/or services relating to major investment, in accordance with a transparent tendering procedure as may be directed by the Commission.
- 7.10 For the purposes of this clause 7, the term "Major Investment" means any planned investment in or acquisition of Transmission facilities, the cost of which, when aggregated with all other investments or acquisitions (if any) forming part of the same overall transaction, equals or exceeds an amount contained in the Specific Conditions applicable to the Transmission Licensee or otherwise decided by the Commission from time to time by a general or special order.
- 7.11 The Transmission Licensee shall be entitled to make Investment in the Transmission Business other than those covered under clauses 7.3 and 7.9 above but for the purposes of considering such Investment while determining the tariff, the Transmission Licensee shall satisfy the Commission that the Investment was required for the Transmission Business and such investment was made in an efficient, co-ordinated and economical manner.



7.12 The Transmission Licensee shall submit to the Commission along with the "Expected Revenue Calculations" filed under Section 62 of the Act , the highlights of the annual investment plan consisting of the schemes approved by the Commission, schemes submitted before the Commission for approval and all schemes not requiring prior approval of the Commission planned for the ensuing financial year and shall make investment in the said financial year in accordance with the said investment plan. The Commission shall take into consideration while determining the tariffs of the Licensee as per the Tariff Regulations to be framed by the Commission under Section 61 of the Central Act, the approval granted by the Commission to the Licensees for the investments under this clause and the actions and inaction on the part of the Transmission Licensees in complying with the terms contained in this clause

Provided that if any unforeseen contingencies required reallocation of funds within the schemes listed in the annual investment plan, the Transmission Licensee may do so to the extent such reallocation up to a limit of 10 % of the overall investment plan and 25 % of the approved amount in respect of each item/work of the investment plan. The Distribution Licensee shall give due intimation of such relocation to the Commission within 7 days of making the investment

Provided also that if on account of unforeseen circumstances the Transmission Licensee is required to make investment in a scheme, which does not find place in the annual investment plan, the Transmission Licensee may do so if the same is not a Major Investment and subject to the conditions contained in clause 7.12 above.

## **8. TRANSFER OF ASSETS**

8.1. The Transmission Licensee shall not, in a single transaction or a set of related transactions, transfer or relinquish Operational Control over any asset whose book value at the time of the proposed Transfer exceeds the amount decided by Commission in the Specific Conditions applicable to the Transmission Licensee or otherwise by a general or special order, without complying with the conditions stipulated in this clause 8.

- 8.2. The Transmission Licensee shall give to the Commission prior written notice of its intention to transfer or relinquish Operational Control over any asset whose value exceeds the amount decided by the Commission as per clause 8.1 above and the Transmission Licensee shall disclose all relevant facts in the communication to the Commission. The Commission may, within 30 days of the receipt of the notice, seek further information in support of the transaction and shall, generally within 30 days of such further information being submitted by the Transmission Licensee, and where no such further information is sought by the Commission as above, within 60 days of the filing of the application, approve the Transfer arrangement subject to such terms and conditions or modifications as is considered appropriate or reject the same, for reasons recorded in writing in the order to be issued by the Commission.
- 8.3. The Transmission Licensee may Transfer or relinquish Operational Control over any asset as is detailed in any notice given under clause 8.2 where:
- (a) the Commission confirms in writing that it consents to such Transfer or relinquishment of Operational Control subject to such conditions as the Commission may impose; or
  - (b) the Commission does not inform the Transmission Licensee in writing of any objection to such Transfer or relinquishment of Operational Control within the notice period referred to in clause 8.2 above and the transfer is effected by transparent and competitive bidding procedures.
- 8.4. The Transmission Licensee may also Transfer or relinquish Operational Control over any asset where:
- (a) the Commission has issued directions for the purposes of this clause 8 containing a general consent (whether or not subject to conditions) to:
    - (i) the transactions of a specified description, and/or
    - (ii) the Transfer or relinquishment of Operational Control over assets of a specified description, and/or
    - (iii) the Transfer or relinquishment of Operational Control in accordance with any conditions to which the consent is subject, or

- (b) the Transfer or relinquishment of Operational Control in question is mandated under any other law; or
  - (c) the asset in question was acquired and used by the Transmission Licensee exclusively or primarily in connection with any Other Business and does not constitute a legal or beneficial interest in land, or otherwise form part of the Transmission System or is not otherwise an asset required for the Licensed Business.
- 8.5. The Transmission Licensee will be entitled to utilise the assets as a means of facilitating financing its investment requirement or including collateral for debt financing, securitisation of receivables subject to the conditions:
- (a) that the Transmission Licensee will inform the Commission about such arrangements at least 15 days prior to the effective date of the relevant agreements;
  - (b) the Transmission Licensee acts in a prudent and reasonable manner in such utilisation of assets; and
  - (c) the Transmission Licensee retains the Operational Control over assets in the Transmission System.
- 8.6. Notwithstanding anything contained in this clause 8 in case of any emergency condition, the Transmission Licensee may transfer the assets subject to the condition that the Transmission Licensee shall immediately after such a transaction seek post-facto approval of the Commission giving the detail facts about the situation and the details of the transaction. It shall be the obligation of the Transmission Licensee to establish to the satisfaction of the Commission of the presence of emergency condition necessitating the transfer of the assets.

## **9. PAYMENT OF LICENCE FEES**

- 9.1. Within such period as the Commission may direct, the Transmission Licensee shall pay to the Commission the Licence Fees, initial and also periodic, mentioned in the Special condition in such manner as the Commission may direct in the said Special Condition
- 9.2. Where the Transmission Licensee fails to pay to the Commission any of the fees due under clause 9.1 by the due dates:

- (a) without prejudice to other obligations, the Transmission Licensee shall be liable to pay interest on the outstanding amount at a simple interest rate of 1.5 percent per month, the interest being payable for the period beginning on the day after which the amount became due, and ending on the day on which the payment is made to the Commission in cleared funds; and
- (b) in the event of continued default by the Transmission Licensee, the Commission may revoke the Transmission Licence..

9.3. The Transmission Licensee shall be entitled to take into account any fee paid by it under this clause 9 as an expense in the determination of aggregate revenues to be charged to the Tariffs, but shall not take into account any interest paid pursuant to this clause.

## **10. TERMS OF REVOCATION**

- 10.1. Subject to the provisions of Section 19 of the Act and the Regulations framed thereunder, the Commission may, at any time initiate proceedings against the Transmission Licensee for revocation of the Transmission Licence and if satisfied in such proceedings on the grounds for revocation duly considering the public interest, revoke the Transmission Licence:
- (a) where the Transmission Licensee in the opinion of the Commission, makes wilful and prolonged default in doing anything required of him by or under the Act or the State Act or the rules or regulations made thereunder;
  - (b) where the Transmission Licensee violates any of the terms or conditions of his licence the breach of which is expressly declared by such licence to render it liable to revocation;
  - (c) where the Transmission Licensee fails, within the period fixed in this behalf by his licence, or any longer period which the Commission may have granted therefor
    - (i) to show, to the satisfaction of the Commission, that he is in a position to fully and efficiently discharge the duties and obligations imposed on him by his licence; or
    - (ii) to make deposits or furnish the security, or pay the fees or other charges required by his licence;

- (d) where in the opinion of the Commission the financial position of the Transmission Licensee is such that he is unable to fully and efficiently discharge the duties and obligations imposed on him; and
  - (e) Where the Transmission Licensee has failed to comply with all the Regulations, codes, and standards and also orders and directions of the Commission or otherwise has committed an act which renders Transmission Licence revocable on any other grounds stated in the Act or the State Act or the Rules or Regulations framed there under.
- 10.2. Where in its opinion the public interest so requires, the Commission may, on application, or with the consent of the Transmission Licensee, revoke his licence as to the whole or any part of his area of transmission upon such terms and conditions as it thinks fit.
- 10.3. Before revoking a Transmission Licence the Commission shall, if in its opinion feel necessary, refer the matter to the State Government and agree on an alternate arrangement to be made for discharging the duties of the Transmission Licensee.

## **11. AMENDMENT OF LICENSE CONDITIONS**

- 11.1. These General Conditions of License may be altered or amended by the Commission at any time, if it deems fit in public interest, in exercise of powers under Section 18 of the Act. For any such alteration or amendment, before any alterations or amendments in the Transmission License are made, the following provisions shall have effect:
- (a) where the Transmission Licensee has made an application under Section 18, Sub-Section (1) of the Act proposing any alteration or amendment in the General Conditions of License, the Transmission Licensee shall publish a notice of such application with such particulars and in such manner as may be directed by the Commission;
  - (b) in the case of an application proposing alterations or modifications in the Area of Activity comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the alterations or modifications shall be made only with the consent of the Central Government;
  - (c) where any alterations or amendments in a license are proposed to be made otherwise than on the application of the Transmission Licensee, the Commission shall publish the

proposed alterations or amendments with such particulars and in such manner as the Commission consider to be appropriate;

- (d) the Commission shall not make any alterations or amendment unless all suggestions or objections received within thirty days from the date of the first publication of the notice have been considered by the Commission.

## **12. DISPUTE RESOLUTION**

12.1. The Commission shall be entitled to act as arbitrator or nominate person(s) as arbitrator(s) to adjudicate and settle disputes between the Transmission Licensee and any other licensees or between the Transmission Licensee and a generating company in pursuance of clause (f) of Sub-Section (1) of Section 86 read with Section 158 of the Act and the regulations of the Commission.

12.2. The arbitration proceedings for disputes under clause 12.1 above may be commenced and conducted by the Commission or the disputes may be referred to the arbitration of others, as the case may be, in accordance with the Conduct of Business Regulations specified by the Commission.

## **13. TRANSMISSION PLANNING AND SECURITY STANDARDS; TRANSMISSION OPERATING STANDARDS:**

13.1 The Transmission Licensee shall plan and operate the Transmission System, so as to ensure that Transmission System built, operated and maintained to provide an efficient, economical and co-ordinated system of Transmission, in accordance with the Grid Code and the Planning, Security and Operating Standards.

13.2 (a) The Transmission Licensee shall make arrangements, within such time as the Commission may direct, to meet the Power Supply Planning and Security Standards and Power Supply Operating Standards.

(b) The Security Standards are such standards as:

- (i) will ensure that the Transmission Licensee conducts its planning so that transmission of electricity will meet levels of reliability and quality proposed by the Transmission Licensee as approved by the Commission; or

(ii) the Commission may otherwise direct from time to time.

(c) The operating standards are such levels of operational security as approved by the Commission from time to time.

13.3 (a) The Transmission Licensee shall, within such time as the Commission may direct in the Specific Conditions or otherwise submit to the Commission the existing planning and security standards and the operating standards for its Transmission System and the existing planning and security standards and operating standards relating to generation capacity connected to its Transmission System being followed by the Transmission Licensee. Such existing standards, with such modification as the Commission may direct, shall continue to remain in effect until the new standards approved by the Commission.

(b) The Transmission Licensee shall, within such time as the Commission may direct in the Specific Conditions or otherwise, prepare, in consultation with the Suppliers, Generating Companies, Central Transmission Utility, State Transmission Utility, Regional Power Committee and such other person as the Commission may direct, and submit to the Commission for approval the Transmission Licensee's proposal for Transmission Planning and Security Standards and Transmission Operating Standards, and Operating Standards in accordance with these General Conditions

(c) The Transmission Planning and Security Standards and Transmission Operating Standards, and the Operating Standards submitted by the Transmission Licensee pursuant to this clause 13, with such modifications as the Commission may require, shall take effect from such dates as the Commission may direct.

13.4 The Transmission Licensee shall not be in breach of its obligations, if the failure to meet the Transmission Planning and Security Standards or the Transmission Operating Standards is due to Force Majeure, provided that, the Transmission Licensee has used its reasonable efforts, to comply with the Transmission Planning and Security Standards or the Transmission Operating Standards, as the case may be.

13.5 The Transmission Licensee shall, in consultation with Suppliers, the Generating Companies, the Central Transmission Utility, the State Transmission Utility, the Regional Power Committee and such other persons as the Commission may order, review the standards and their implementation on each occasion a review of the Grid Code is undertaken. Following any such review, the Transmission Licensee shall send to the Commission:

- (a) a report on the outcome of such review; and
  - (b) any revision which the Transmission Licensee proposes to make to such documents from time to time (having regard to the outcome of such review); and
  - (c) any written representations or objections (including those not accepted by the Transmission Licensee) from Suppliers, the Generating Companies, the Central Transmission Utility, the State Transmission Utility, the Regional Power Committee and such other persons as the Commission may order arising during the consultation process; Provided that the Commission may, upon application of the Transmission Licensee, relieve the Transmission Licensee from the obligation to review the standards and their implementation, to such extent as shall be stated in directions issued to the Transmission Licensee by the Commission for the purposes of this condition.
- 13.6 The Commission may, having regard to any written representations and objections received and following such further consultation as the Commission may consider appropriate, issue directions requiring the Transmission Licensee to revise the standards in such manner as may be stated in the directions. The Transmission Licensee shall duly carry out the revisions directed by the Commission
- 13.7 The Transmission Licensee shall within 3 months of the end of each financial year, submit to the Commission a report indicating the performance of the Transmission System during the previous financial year. The Transmission Licensee shall, if required by the Commission, publish the reports in a manner to be determined by the Commission. The copies of this report shall also be furnished by the Transmission Licensee to all persons applying for the same at the normal cost of photocopying.
- 13.8 The Transmission Licensee shall, upon request by the Commission, provide to the Commission such information as the Commission may require under or for the purpose of monitoring the duties and responsibilities of the Transmission Licensee under this clause 13. .

#### **14. GRID CODE**

- 14.1 The Transmission Licensee shall ensure due compliance with the Grid Codes in operation.



- 14.2 The Grid Code shall be formulated from time to time by the State Transmission Utility in consultation with the Transmission Licensee, other licensees and generating companies and implemented with the approved by the Commission. Until such State Grid Code is implemented the Transmission Licensee shall follow the Interim Grid Code.
- 14.3 The Commission may, on reasonable grounds and after consultation with any affected Generating Companies, the Transmission Licensee, the State Transmission Utility, the State Load Despatch Centre and Electricity Traders, issue directions relieving the Transmission Licensee of its obligation in respect of such parts of the Grid Code and to such extent as may be decided by the Commission.
- 14.4 The State Transmission Utility shall, in consultation with other Transmission Licensees, Generating Companies, the Central Transmission Utility, the Regional Power Committee and such other Persons as the Commission may direct, review the Grid Code and its implementation from time to time in so far as the operation of the Transmission Licensee is concerned. Such review should be carried at least once in three years. Following any such review, the Transmission Licensee shall send to the Commission and the State Transmission Utility:
- (a) a report on the outcome of such review; and
  - (b) any proposed revisions to the Grid Code from time to time as the State Transmission Utility reasonably thinks fit; and
  - (c) all written representations or objections received by the State Transmission Utility during the consultation process.

## **15. CONNECTION AND USE OF SYSTEM**

- 15.1 The Transmission Licensee shall make such arrangements for non discriminatory open access to the use of his Transmission System by Users subject however to the availability of adequate transmission capacity in accordance with open access regulation notified by the Commission and further subject to the User agreeing to pay all applicable charges including the transmission charges and surcharges wherever applicable.

- 15.2 On application made for grant of a connection by any person intending to use the Transmission System the Transmission Licensee shall offer to enter into an agreement with such Person for connection to the Transmission System or for modification of such an existing connection and such offer shall make provision for:
- (a) carrying out of works necessary to make the required connection, including the installation of meters;
  - (b) carrying out of any necessary works to reinforce the Transmission Licensee's Transmission System;
  - (c) the connection charges to be paid as directed by the Commission ; and
  - (d) the completion date and such other terms as are relevant to the circumstances.
- 15.3 The Transmission Licensee shall offer terms for agreements in accordance with clauses 15.1 or 15.2 as soon as practicable to the intended Users of the System. The Transmission Licensee shall not be obliged to offer to enter into any agreement if
- (a) adequate transmission capacity is not available in the Transmission system, provided that the existence or absence of such available capacity shall be subject to determination by the State Transmission Utility and in case of any dispute pertaining to the same on such determination the same shall be subject to the decision of the Commission;
  - (b) it is likely to result in breach of its duties under the Act or the State Act; or
  - (c) it is likely to result in breach of any rules or Regulations relating to safety or Standards applicable to the Transmission Business including, the prevailing Rules;
  - (d) being in breach of the Grid Code or
  - (e) the Person making the application does not undertake to comply with the Grid Code(s) from time to time in force to the extent that it is applicable to that Person; or
  - (f) the person making the application fails to pay the applicable charges, surcharges, adjustment for losses of electricity in the Transmission Systems determined by the Commission.

- 15.4 If, after a period which appears to the Commission to be reasonable for the purpose, the Transmission Licensee has failed to enter into an agreement with any intending user of the Transmission System, the Commission may at the request of such intending user settle such terms in dispute between the Transmission Licensee and that Person and, the Transmission Licensee shall forthwith enter into and implement such agreement in accordance with its terms as settled by the Commission.
- 15.5 The Transmission Licensee shall prepare and submit to the Commission on an annual basis, a statement showing in respect of each of the 5 succeeding financial years forecasts of circuit capacity, power flows and loading on the Transmission System under standard planning criteria, together with:
- (a) such further information as shall be reasonably necessary to enable any Person seeking Use of System to identify and evaluate the opportunities available when connecting to and making use of such system; and
  - (b) a statement prepared by the Transmission Licensee indicating its views as to those parts of its Transmission System most suited to new connections and transport of further quantities of electricity.
- 15.6 At the request of a Person or a Supplier who wishes to use the Transmission System, the Transmission Licensee shall prepare an update to the above statement, incorporating most recent data but specifically including any facility for which any other Person or a Supplier has requested use of and connection to the Transmission System.
- 15.7 The Transmission Licensee may make a charge for any statement given or sent to Persons seeking Use of System, of an amount reflecting the Transmission Licensee's reasonable costs of providing such a statement.
- 15.8 The Transmission Licensee is entitled to undertake all activities necessary, related or incidental to the conduct of the Transmission Business, which would include laying and operating appropriate communication network to implement information technology based solutions like remote metering etc. for the Licensed Transmission Business.

**16. EXPECTED REVENUE CALCULATION AND TARIFFS**

- 16.1 The Transmission Licensee shall calculate the expected revenue from charges which it is permitted to recover, in accordance with the provisions of the Act, the State Act, the Regulations of the Commission, the tariff terms and conditions and other guidelines, orders and directions issued by the Commission from time to time.
- 16.2 The Transmission Licensee shall file the Expected Revenue Calculation and the application containing tariff proposals in the manner provided in the Conduct of Business Regulations and consistent with the Regulations under Section 61 of the Act
- 16.3 Unless otherwise provided in the Specific Conditions or in any order or direction made by the Commission the Transmission Licensee shall every year, not later than 30th November, submit to the Commission (i) a Statement with full details of its expected aggregate revenues and cost of service for the ensuing financial year (including financing costs and its proposed return on equity) for its Licensed Business, in accordance with the provisions of the Act and the regulations, guidelines and orders issued by the Commission from time to time and (ii) the annual investment plan giving specific details of the investment which the Transmission Licensee proposes to make in the ensuing financial year and which the Transmission Licensee desires to be covered under the revenue requirements in the ensuing financial year with appropriate references to schemes, if any, already approved by the Commission of which such investments form a part. The Transmission Licensee shall prepare and submit to the Commission the Statement and the investment details referred to in the above separately for each of its Licensed Businesses and Other Businesses.
- 16.4 The Transmission Licensee shall along with the Expected Revenue Calculation or at such other time and periodicity, the Commission may specifically permit to file the application containing tariff proposals and the revision to the existing tariffs approved by the Commission to match the revenue requirements of the Transmission Licensee
- 16.5 The amount that the Transmission Licensee is permitted to recover from its tariffs is the amount that the Commission determines and approves in accordance with the provisions of the Act, State Act and the Regulations of the Commission
- 16.6 The Transmission Licensee shall pay to the Distribution Licensee concerned as provided in Sections 39 and 40 read with Sub-Section (2) of Section 42 of the Act the amount of surcharge if

any permitted to be recovered by the Transmission Licensee in the case of transmission of electricity to the consumer as directed by the Commission

- 16.7 The Transmission Licensee may apply to the Commission to amend its tariffs in accordance with the Act and applicable Regulations and directions of the Commission.

**17. APPLICATION OF THE GENERAL CONDITIONS TO THE STATE TRANSMISSION UTILITY:**

The provisions of these General Conditions shall apply to the State Transmission Utility save as the provisions relating to revocation of the Transmission Licence and the functions of State Load Dispatch Centre under Section 32 of the Act and activities of the State Transmission Utility under clauses (b) and (c) of Sub-Section (2) of Section 39 of the Act.

**18. MISCELLANEOUS**

- 18.1 All issues arising in relation to interpretation of these General Conditions and as to the terms and conditions thereof shall be a matter for the determination of the Commission and the decision of the Commission on such issues shall be final, subject only to the right of appeal under Section 111 of the Act.

- 18.2 The Commission may at the time of grant of Transmission Licence waive or modify the application of any of the provisions of these General Conditions either in the order granting the licence or by Specific Conditions made applicable to a specific Transmission Licensee

19. The General conditions contained herein shall apply to all applicants for grant of Transmission Licence after the coming into force of the Act and also to all deemed Transmission Licensees under Section 14 proviso first, second, third and fifth of the Act

**APPENDIX 4C**

(See Regulation 31)

**ORISSA ELECTRICITY REGULATORY COMMISSION  
GENERAL CONDITIONS OF TRADING LICENCE****1. DEFINITIONS**

1.1 Unless the context otherwise requires in these general conditions:

**“Accounting Statement”** means for each financial year, accounting statements for the Licensed Business comprising a profit and loss account, a balance sheet and a statement of sources and application of funds, together with notes thereto as detailed under the Companies Act, 1956 (1 of 1956) and such other particulars and details in the manner as the Commission may direct from time to time. If the Trading Licensee engages in any business or activity in addition to the Licensed Business, the accounting statements shall comply with the regulations of the Commission dealing with the treatment of Other Business of Trading Licensees and show separately the amounts of any revenue, cost, asset, liability, reserve or provision, which has been either:

charged from the Licensed Business to any Other Business or vice versa together with a description of the basis of that charge; or

determined by apportionment or allocation between the Licensed Business and any Other Business of the Trading Licensee together with a description of the basis of the apportionment or allocation.

**“Act”** means the Electricity Act, 2003 (36 of 2003)

**“Annual Accounts”** means the accounts of the Trading Licensee prepared in accordance with the provisions of the Companies Act, 1956 and/or in such other manner as may be directed by the Commission in terms of the provisions of the Act;

**“Area of Activity”** means the area of activity stated in the Trading Licence within which the Trading Licensee is authorised to trade;

**“Auditors”** means the Trading Licensee’s auditors holding office in accordance with the requirements of Sections 224 to 234A or Section 619 as appropriate, of the Companies Act 1956 (1 of 1956);

**“Authorised”**, in relation to any Person, business or activity, means authorised by licence granted under Section 14 of the Act or deemed to be granted under the first second third and fifth proviso to Section 14 of the Act or exemption granted under Section 13 of the Act and the regulations of the Commission;

**“Commission”** means the Orissa Electricity Regulatory Commission;

**“Deemed Licensee”** means a person authorised under the first, second, third and fifth proviso to Section 14 of the Act.

**“Distribution”** means the conveyance or wheeling of electricity by means of a Distribution System;

**“Distribution Code”** means the Distribution (Planning and Operation) Code governing all material technical aspects relating to connections to and the operation and use of the Distribution System as approved by the Commission;

**“Force Majeure”** means events beyond the reasonable control of the Licensee, including, but not limited to earthquakes, cyclones, floods, storms, adverse weather conditions, war, terrorist attacks, civil commotion or other similar occurrences that leads to any act that would involve a breach of relevant laws or regulations concerned with electrical safety;

**“Grid Code”** means the grid code developed by the State Transmission Utility approved by the Commission, covering all material technical aspects relating to connections to and the operation of the Grid, the use of a Transmission System, or (in so far as relevant to the operation and use of a Transmission System) the operation of electric lines and electrical plant connected to the Transmission System, the Distribution Systems, or the system of any Supplier, and shall include the Interim Grid Code;

**“Interim Grid Code”** means the existing practices and procedures implemented by the State Transmission Utility pending the approval of the Grid code by the Commission.

**“Licence”** means the licence under Section 14 of the Act under which the Licensee is Authorised to conduct the Licensed Business;

“**Licensed Business**” means the business of Trading in electricity as authorised under the licence;

“**Other Business**” means business of the Trading Licensee other than the Licensed Business;

“**Person**” shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;

“**Regulations**” means the regulations made by the Commission, under the provisions the Act or the State Act;

“**Specific Conditions**” mean the conditions in addition to or in variation of the General Conditions, which the Commission may lay down, specifically, for a trading licensee;

“**State**” means the State of Orissa;

“**State Act**” means the Orissa Electricity Reform Act, 1995;

“**State Government**” means the Government of the State of Orissa;

“**Trading Business**” means the Authorised business of a Trading Licensee to Transmit electricity, whether for its own account or for that of any other Person, through any system owned and/ or operated by such Licensee;

“**Trading Licensee**” means the Licensee under Section 14 of the Act for undertaking Trading and shall include Deemed Licensee for the purpose

“**Transmission Licensee**” means the entity, which has been granted a Transmission Licence or is a deemed Licensee under the first, second, third or fifth proviso of Section 14 of the Act authorised to transmit electricity;

“**Transfer**” shall include the sale, exchange, gift, lease, licence, loan, securitisation, mortgage, charge, pledge or grant of any other encumbrance or otherwise permitting of any encumbrance to subsist;

- 1.2 Words, terms and expressions occurring in these General Conditions and are not defined herein above shall bear the same meaning as in the Act.

## 2 **TERM**

The Trading Licence shall come into force on the date to be mentioned by the Commission in the order granting the licence and subject to the terms and conditions of the grant of licence, shall remain in force for the period mentioned in the Order



### **3. COMPLIANCE WITH LAWS, RULES AND REGULATIONS**

- 3.1 The Trading Licensee shall comply with the provisions of the Act, Rules, Regulations, orders and directions issued by the Commission from time to time and the provisions of all other applicable laws.
- 3.2 The Trading Licensee shall act in accordance with this General Conditions except where the Trading Licensee is exempted from any provisions of these general conditions at the time of the grant of licence or otherwise specifically obtains the approval of the Commission for any deviation there from.
- 3.3 The Trading Licensee shall duly comply with and undertake the activities consistent with the Grid Code, Distribution Code, Distribution (Conditions of Supply) Code and other codes and standards, orders and directions of the National Load Despatch Centre, Regional Load Despatch Centre and the State Load Despatch Centre and other statutory authorities issued in the discharge of their functions Under the Act or the State Act.

### **4. ACTIVITIES AND OBLIGATIONS OF THE TRADING LICENSEE**

- 4.1 The Trading Licensee may engage in the business of trading in electricity in the state, provided that in the event of sale or supply of electricity to consumer besides others, the same shall be subject to payment of surcharge to meet the current level of cross subsidy as provided in Sub-Section (2) of Section 42 of the Act .
- 4.2 The Trading Licensee shall seek approval of the Commission before making any loans to, or issuing any guarantee for any obligation of any Person, except when made or issued for the purposes of the Licensed Business. Loans to employees pursuant to their terms of service and trade advances in the ordinary course of business are excluded from the requirement to seek such approval.
- 4.3 The Trading Licensee shall not at any time transfer or assign his licence in any manner without the prior approval of the Commission
- 4.4 The trader shall make reasonable endeavours to maintain investment grade credit rating from an independent Credit Rating Agency throughout the period of the Licence

- 4.5 The licensee shall be governed by the technical requirements, capital adequacy requirements and creditworthiness specified by the Commission in these regulations, for being an electricity trader and shall upgrade these technical and capital adequacy requirements, including staff, when the volume of trading increases;
- 4.6 The licensee shall increase his net worth if the volume of trade moves from a lower category to a higher category and the change of category shall be decided based on the volume of electricity traded as on 31st March of each year, and of which the licensee shall keep the Commission informed of his moving from one category to the other and subsequent changes in the net worth;
- 4.7 The licensee shall be subject to the trading margins for the intra-state trading as fixed by the Commission, from time to time;
- 4.8 The licensee shall establish adequate communication facilities like telephone, fax, computer, internet facilities, before undertaking trading;
- 4.9 The licensee shall coordinate with Regional Electricity Boards or Regional Power Committees, as the case may be State Load Despatch Centers, and State Transmission Utilities with regard to all trading related activities;
- 4.10 The licensee shall render all assistance to any person authorised by the Commission for carrying out his duties relating to the licence;
- 4.11 Trading shall be carried out bilaterally between the parties by entering into appropriate contracts. Necessary safeguards with regard to supply of electricity through trading or payment for the electricity traded shall be included in the agreements between the parties. All trading arrangements shall be done through the letters of credit or with any other superior instrument;
- 4.12 The licensee shall not omit or neglect to undertake trading activity for four consecutive quarters;
- 4.13 The licensee shall not enter into any agreement leading to abuse of his dominant position or enter into a combination which is likely to cause or causes an adverse effect on competition in electricity industry;
- 4.14 The Trading Licensee shall duly comply with and undertake the activities consistent with the Grid Code, Distribution Code, Distribution (Conditions of Supply) Code and other codes and standards, order and directions of the National Load Despatch Centre, Regional Load Despatch Centre and the State Load Despatch Centre and other statutory authorities issued in the discharge of their functions.

#### **4.15 DUTIES OF THE TRADING LICENSEE**

The Electricity Trader shall:

- (a) have in place all agreements or arrangements for the purchase and sale of electricity, and all necessary authorisations as required by the Trading Licence to be able to perform its obligations under such agreements;
- (b) have in place the requisite Agreements with the Transmission Licensees and Distribution Licensees for the transmission or wheeling of electricity, as the case may be;
- (c) have in place Billing and Settlement Agreements, i.e. between him and the supplier of energy including the generating companies or, between him and other Licensees, who are purchasers of electricity and also between him and the customers, who are traders or consumers;
- (d) inform the customer as to when the expiry will occur and the tariffs and terms & conditions applicable to the customer beyond the expiry of the contract, if the contract of the trader with its customer is for a fixed term, then prior to the expiry of the fixed term and the arrangement is continued;
- (e) maintain an up to date register or record of all the business transactions including up-to-date record of his customers; and
- (f) comply with any other requirements as the Commission may direct from time to time.

#### 4.16 PROHIBITIONS

The electricity trader shall not engage in the business of transmission of electricity

### 5 ACCOUNTS

5.1 Unless otherwise permitted by the Commission the financial year of the Trading Licensee for the purposes of these General Conditions and matters relating to the Licensed Business shall run from the first of April to the following thirty-first of March.

5.2 The Trading Licensee shall, in respect of the Licensed Business and any Other Business:

- (a) keep such accounting records as would be required to be kept in respect of each such business so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to the Licensed Business are separately identifiable in the books

of the Trading Licensee, from those of Other Business in which the Trading Licensee may be engaged;

- (b) prepare on a consistent basis from such accounting records and deliver to the Commission, the Accounting Statements; namely:-
- (i) in respect of the first six months of each financial year, a Half Yearly profit and loss account, cash flow statement and balance sheet together with such supporting documents and information as the Commission may direct from time to time such statements and documents to be published in the manner directed by the Commission;
  - (ii) in respect of the Accounting Statements prepared, an Auditor's report for each financial year, stating whether in their opinion these statements have been properly prepared in accordance with this clause and give a true and fair view of the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to such businesses to which the statements relate; and
  - (iii) a copy of each Half Yearly profit and loss account not later than three months after the end of the period to which it relates, and copies of the Accounting Statements and Auditor's report not later than six months after the end of the financial year to which they relate.

5.3 The Trading Licensee shall not normally change the basis of charge or apportionment or allocation of revenues or expenses in relation to the preparation of the Accounting Statements in respect of a financial year from those applied in respect of the previous financial year, without prior intimation to the Commission. Any change, if proposed, in the basis of charge or apportionment of revenues or expenses shall be consistent with the provisions of the Companies Act, 1956, the Accounting Standards or Rules and any guidelines issued by the Commission in this regard.

5.4 Where, in relation to the Accounting Statements in respect of a financial year, the Trading Licensee has changed the basis of charge or apportionment or allocation from those adopted for the immediately preceding financial year, the Trading Licensee shall, if directed by the Commission, (in addition to preparing Accounting Statements on those bases which it has adopted), prepare and deliver to the Commission such Accounting Statements on the basis which it applied in respect of the immediately preceding financial year.

- 5.5 The Accounting Statements under clause 5.2 above shall, unless or otherwise approved or directed by the Commission:
- (a) be prepared and published with the Annual Accounts of the Trading Licensee, in the manner provided herein;
  - (b) state the accounting policies adopted;
  - (c) be prepared in accordance with generally accepted accounting policy; and
  - (d) be prepared in the form as the Commission may stipulate from time to time;
- 5.6 The references to costs or liabilities of, or reasonably attributable to Licensed Business or Other Business shall be construed as excluding taxation, and capital liabilities which do not relate principally to such Business and interest thereon.
- 5.7 The Trading Licensee shall ensure that the Accounting Statements in respect of each financial year prepared under clause 5.2 and the Auditor's report in respect of each financial year are publicised in such manner as the Commission may direct and are made available to any Person requesting them at a price not exceeding the reasonable cost of duplicating them.

## **6 PROVISION OF INFORMATION TO THE COMMISSION**

- 6.1 The Trading Licensee shall furnish to the Commission without undue delay such information, documents and details related to the Licensed Business or any Other Business of the Trading Licensee, as the Commission may require for its own purposes or for the purposes of the Government of India, State Government, the State Transmission Utility, The State Load Dispatch Centre, the Central Commission and/or the Central Electricity Authority.
- 6.2 The Trading Licensee shall duly maintain the information as the Commission may direct under Section 128 of the Act.

- 6.3 The Trading Licensee shall duly inform the Commission about any incident restricting it from meeting its obligation under the licence granted including any act of omission or commission by others and steps taken by the Trading Licensee to mitigate the effect of such incident .The Trading Licensee shall notify the Commission as soon as possible the occurrence of any other incident which materially affect any part of its Trading activities and in any event, by not later than two months from the date of such occurrence:
- (a)submit a report to the Commission giving full details of the facts within the knowledge of the Trading Licensee regarding the incident and its cause;
  - (b)Trading Licensee can reasonably furnish and state reasons as to why Trading Licensee requires more than two months for giving full report of such incident; and
  - (c)give copies of the report to all parties concerned with the Major Incident and to such other Persons as the Commission may direct.
- 6.4 The Commission may by order, after providing an opportunity of hearing direct the Trading Licensee to provide such amount of compensation as the Commission may direct to person(s) who are affected or prejudiced by any act of commission, omission or negligence on the part of any of the employees or agents of the Trading Licensee.
- 6.5 The Trading Licensee shall also undertake such studies as the Commission may direct it to undertake from time to time in regard to the trading activities and any other matter concerning the Trading Business that the Commission considers necessary in the public interest. The Commission at its own discretion may require the submission of a report to be prepared by an independent person on the activities of the Trading Licensee at the cost and expense of the Trading Licensee.
- 6.6 The Commission may at any time require the Trading Licensee to comply with the provisions of this clause 6 in a manner the Commission may direct and the Trading Licensee shall be obliged to comply with the same.

- 6.7 The Trading Licensee shall submit a Business Plan within three months of Trading Licence coming in force for such period as the Commission may direct and shall update such plan annually. The Business Plan shall contain year wise turnover projected profit and loss account, projected balance sheets, projected cash flow statements and projected important financial parameters. The licensee shall post the accounting statements in respect of each financial year along with their auditor's comments in its web-site.

## 6.8 PRUDENTIAL REPORTING

- (1) The licensee shall, as soon as practicable, report to the Commission:
- (a) Any significant change in his circumstances which may affect the licensee's ability to meet his obligations under the Act, the Rules and the Regulations, directions and orders issued by the Commission, the Grid Code, agreement or the licence;
  - (b) Any material breach of the provisions of the Act, the Rules and the Regulations, directives and orders issued by the Commission, the Grid Code, agreement or the licence; and
  - (c) Any major change in shareholding pattern, ownership or management of the licensee.
- (2) The Trading Licensee shall Furnish the information as may be required from time to time, to monitor the licensee's performance and compliance of the terms and conditions of the licence and any other legislative or regulatory requirement in Form I appended to these General Conditions for submission of information.
- Provided that the information in the prescribed Form shall be furnished to the State Load Despatch Centre and with a copy to the Commission, on a quarterly basis on 10th day of April, July, October and January for the quarters January to March, April to June, July to September and October to December respectively and the format for submission of information shall be filled up complete in all respects and no column shall be left blank:
- Provided further that the report sent to the State Load Despatch Centre shall be posted on the website of the electricity trader or any other authorised website:
- Provided also that the State Load Despatch Centre, shall verify the quantum of energy traded, as indicated in the report and submit a report to the Commission.

## **7 CAPITAL ADEQUACY, CREDIT WORTHINESS NORMS TO MAINTAINED**

- 7.1 The Trading Licensee shall duly comply with the Regulations, guidelines, directions and orders the Commission may issue from time to time in regard to the technical and financial parameters and norms to be maintained at all times by the Trading Licensee.. These shall include the Technical Requirements, Capital Adequacy and Credit Worthiness as laid down in Chapter IV of Conduct of Business Regulations read with Section 52 of the Act, as amended, modified or substituted from time to time;
- 7.2 The non maintenance of the technical and financial parameters as per sub-clause (1) above shall amount to a material breach of the obligations of the Trading Licensee.

## **8. STANDARDS OF PERFORMANCE**

- 8.1 The Commission may, after consultation with the licensee specify the standards of performance of a licensee or a class of licensees.
- 8.2 Notwithstanding anything contained in Clause 8.1 above, the licensee shall furnish the performance details for each year to the Commission on quarterly basis for the quarter ending 31st March, 30th June, 30th September and 31st December in the format prescribed in Form-II appended to these General Conditions, by 15th day of the first month of the following quarter.

## **9 LICENCE FEES**

- 9.1 Within such period as the Commission may direct, the Trading Licensee shall pay to the Commission the Licence Fees, initial and also periodic, mentioned in the Special condition in such manner as the Commission may direct in the said Special Condition
- 9.2 Where the Trading Licensee fails to pay to the Commission any of the fees due under clause 9.1 by the due dates:
- (a) without prejudice to other obligations, the Trading Licensee shall be liable to pay interest on the outstanding amount at a simple interest rate of 1.5 percent per month, the interest being payable for the period beginning on the day after which the amount became due, and ending on the day on which the payment is made to the Commission in cleared funds; and



- (b) in the event of continued default by the Trading Licensee, the Commission may revoke the Trading Licence..

## 10 TERMS OF REVOCATION

10.1 Subject to the provisions of Section 19 of the Act and the Regulations framed thereunder, the Commission may, at any time initiate proceedings against the Trading Licensee for revocation of the Trading Licence and if satisfied in such proceedings on the grounds for revocation duly considering the public interest, revoke the Trading Licence:

- (a) where the Trading Licensee in the opinion of the Commission, makes material breach or wilful default in doing anything required of him by or under this Act or the State Act or the rules or regulations made thereunder
- (b) where the Trading Licensee violates any of the terms or conditions of his licence the breach of which is expressly declared by such licence to render it liable to revocation;
- (c) where the Trading Licensee fails, within the period fixed in this behalf by his licence, or any longer period which the Commission may have granted therefore-
  - (i) to show, to the satisfaction of the Commission, that he is in a position to fully and efficiently discharge the duties and obligations imposed on him by his licence; or
  - (ii) to make deposits or furnish the security, or pay the fees or other charges required by his licence;
- (d) where in the opinion of the Commission the financial position of the Trading Licensee is such that he is unable to fully and efficiently discharge the duties and obligations imposed on him; and .
- (e) where the Trading Licensee has failed to comply with all the Regulations, codes, and standards and also orders and directions of the Commission or otherwise has committed an act which renders Trading Licence revocable on any other grounds stated in the Act or the State Act or the Rules or Regulations framed there under.

- 10.2 Where in its opinion the public interest so requires, the Commission may, on application, or with the consent of the Trading Licensee, revoke his licence as to the whole or any part of his Area of Activity upon such terms and conditions as it thinks fit.
- 10.3 Before revoking a Trading Licence the Commission may make such alternate arrangement to be made for discharging the duties of the Trading Licensee which the Commission considers necessary in public interest and all such arrangement shall be at the cost and risk of the Trading Licensee.

## **11 AMENDMENT OF LICENSE CONDITIONS**

- 11.1 These General Conditions of License may be altered or amended by the Commission at any time it deems fit if it is in public interest in exercise of powers under Section 18 of the Act. For any such alteration or amendment, before any alterations or amendments in the Trading License are made , the following provisions shall have effect:
- (a) where the Trading Licensee has made an application under Section 18, Sub-Section (1) of the Act proposing any alteration or amendment in the General Conditions of License, the Trading Licensee shall publish a notice of such application with such particulars and in such manner as may be directed by the Commission;
  - (b) in the case of an application proposing alterations or modifications in the Area of Activity comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the alterations or modifications shall be made only with the consent of the Central Government;
  - (c) where any alterations or amendments in a license are proposed to be made otherwise than on the application of the Trading Licensee, the Commission shall publish the proposed alterations or amendments with such particulars and in such manner as the Commission consider to be appropriate;
  - (d) the Commission shall not make any alterations or amendments unless all suggestions or objections received within thirty days from the date of the first publication of the notice have been considered by the Commission.

**12 DISPUTE RESOLUTION**

- 12.1 The Commission shall be entitled to act as arbitrator or nominate person(s) as arbitrator(s) to adjudicate and settle disputes between the Trading Licensee and any other licensees or between the Trading Licensee and generating companies in pursuance of clause (f) of Sub-Section (1) of Section 86 read with Section 158 of the Act and Regulations of the Commission.
- 12.2 The arbitration proceedings for disputes under clause 12.1 above may be commenced and conducted by the Commission or the disputes may be referred to the arbitration of others, as the case may be, in accordance with the Conduct of Business Regulations specified by the Commission.

**13. TARIFF AND TRADING MARGIN EXPECTED REVENUE CALCULATION AND TARIFFS**

- 13.1 The Trading Licensee shall calculate the expected revenue from charges which it is permitted to recover as a trading margin, in accordance with the provisions of the Act, the State Act, the Regulations of the Commission, the tariff terms and conditions and other guidelines, orders and directions issued by the Commission from time to time.
- 13.2 The Trading Licensee shall file the Expected Revenue Calculation in the manner provided in the Conduct of Business Regulations and consistent with the Regulations under Section 61 of the Act
- 13.3 Unless otherwise provided in the Specific Conditions or in any order or direction made by the Commission the Trading Licensee shall every year, not later than 30th November, submit to the Commission a Statement with full details of its expected aggregate revenues and cost of service for the ensuing financial year for its Licensed Business based on the trading margin allowed by the Commission, in accordance with the provisions of the Act and the regulations, guidelines and orders issued by the Commission from time to time.

**14. MISCELLANEOUS**

- 14.1 All issues arising in relation to interpretation of these General Conditions and as to the terms and conditions thereof shall be a matter for the determination of the Commission and the decision of the Commission on such issues shall be final, subject only to the right of appeal under Section 111 of the Act.

- 14.2 The Commission may at the time of grant of Trading Licence waive or modify the application of any of the provisions of these General Conditions either in the order granting the licence or by Specific Conditions made applicable to a specific Trading Licensee
- 14.3 The General conditions contained herein shall apply to all applicants for grant of Trading Licence after the coming into force of the Act and also to all deemed Trading Licensees under Section 14 proviso first, second, third and fifth of the Act

**FORM-I****OERC (Procedure, Terms & Conditions for grant of Trading License and other related matters)  
Regulation, 2003**Proforma for submission of information for the Quarter (say January to March, 2004)

Name of the Trader:

License details (No &amp; date):

S.No.	Volume of Trading in million Kwhs	Purchased from	<i>Sold to</i>	Point of purchase	Point of Sale	Point of sale	Sale price	Transmission/whooling charges borne by Seller/Trader/Buyer*	Transmission losses borne by Seller/Trader/Buyer*	UI charges borne by Seller/Trader/Buyer*	Remarks

\* Strike out whichever is not applicable.



**APPENDIX - 5**

(See Regulation 36)

**PROFORMA OF PUBLICATION  
BEFORE THE ORISSA ELECTRICITY REGULATORY COMMISSION**

NOTICE

Public notice of application for a licence or for amendments or alterations of a licence .....  
..... for ..... (types of licence or name of the licence)  
pursuant to Section 15 or 18 (please strike out which is not relevant of the Electricity Act, 2003)

The (Name of the applicant) ..... hereby gives notice to all  
members of the public that it has made an application (the 'Application') for .....  
..... to the Orissa Electricity Regulatory Commission in accordance with Section 15 or 18 (please  
strike out which is not relevant) of the Electricity Act, 2003 (36 of 2003) for (the purpose of application) . . .  
..... engaged/to engage in the business of (Transmission and or  
Distribution or Trading of Electricity in the State) in the area comprising (Details of area of business) . . . .  
..... including/excluding (strikeout which is not relevant) cantonment, aerodrome, fortress,  
arsenal, dockyard or camp or any building or place in the occupation of the Central Government.

(Purpose in brief by the licensee for alterations and amendments to the terms and conditions of a  
licence)

Any person is entitled to inspect the Application and the draft licence as proposed by the  
applicant licensee (Name of applicant) ..... in the application. Copies of the maps of the area of  
supply (if applicable) and of the draft licence may be inspected at the Registered Office of (Name of  
applicant/company) ..... which is at (Postal address in details) .....  
.....  
.....

Any person wishing to purchase a copy of the draft licence may also do so from the Registered  
office of the company in person or by post on payment of Rs.100.

**OBJECTIONS:**

Any local authority, utility or person having any **objection** to grant of such licence or to grant of alterations and amendment to the licence may send his objection in writing (four copies) addressed to the Secretary, Orissa Electricity Regulatory Commission, Bidyut Niyamak Bhavan, Unit-VIII, Bhubaneswar – 751 012, clearly indicating the following information.

- (i) Name and address of the objector
- (ii) Particular licence, licensee to which objection is made.
- (iii) Reasons for objection to grant of licence or to grant of alteration and amendment to licence.
- (iv) Whether the objector wants to be heard in person by the Commission.

Any representation or objection to grant licence or to grant of alterations and amendments to licence may be handed over to the Secretary, Orissa Electricity Regulatory Commission or sent by Registered post to reach the Commission within one month from the date of publication of this notice.

Authorised Officers  
Name and Designation  
Name of the Company or Utility



**Appendix-6A**  
**(See Regulation 50)**  
**FORMAT FOR FURNISHING TECHNICAL**  
**DETAILS BY THERMAL GENERATING COMPANIES**

<b>FORM-A</b>							
<b>Plant Characteristics</b>							
<b>Name of the Company</b>							
<b>Name of the Power Station</b>							
<b>Basic characteristics of the plant<sup>1</sup></b>							
<b>Special Features of the Plant</b>							
<b>Site Specific Features<sup>2</sup></b>							
<b>Special Technological Features<sup>3</sup></b>							
<b>Environmental Regulation related features<sup>4</sup></b>							
<b>Any other special features</b>							
<b>Fuel Details<sup>5</sup></b>							
Primary Fuel				Secondary Fuel		Alternate Fuels	
<b>Details</b>		<b>Module number or Unit number</b>					
(1)		(2)	(3)	(4)	(5)	(6)	(7) & so on
Installed Capacity (IC)							
Date of Commercial Operation (COD)							
Type of cooling system <sup>6</sup>							
Type of Boiler Feed Pump <sup>7</sup>							
<sup>1</sup> Describe the basic characteristics of the plant e.g. in the case of a coal based plant whether it is a conventional steam generator or circulating fluidized bed combustion generator or sub-critical once through steam generator etc.							
<sup>2</sup> Any site specific feature such as Merry-Go-Round, Vicinity to sea, Intake /makeup water systems etc. scrubbers etc. Specify all such features.							
<sup>3</sup> Any Special Technological feature like Advanced class FA technology in Gas Turbines, etc.							
<sup>4</sup> Environmental regulation related features like FGD, ESP etc.							
<sup>5</sup> Coal or natural gas or naphtha or lignite etc.							
<sup>6</sup> Closed circuit cooling, once through cooling, sea cooling etc.							
<sup>7</sup> Motor driven, Steam turbine driven etc.							
						<b>PETITIONER</b>	





<b>SALIENT FEATURES OF HYDROELECTRIC PROJECT</b>			
<b>NAME OF COMPANY:</b>			
<b>NAME OF POWER STATION:</b>			
<b>1. Location</b>			
State/Distt.			
River			
<b>2. Diversion Tunnel</b>			
Size, shape			
Length			
<b>3. Dam</b>			
Type			
Maximum dam height			
<b>4. Spillway</b>			
Type			
Crest level of spillway			
<b>5. Reservoir</b>			
Full Reservoir Level (FRL)			
Minimum Draw Down Level (MDDL)			
Live storage (MCM)			
<b>6. Desilting Arrangement</b>			
Type			
Number and Size			
Particle size to be removed(mm)			
<b>7. Head Race Tunnel</b>			
Size and type			
Length			
Design discharge(Cumecs)			
<b>8. Surge Shaft</b>			
Type			
Diameter			
Height			
<b>9. Penstock/Pressure shafts</b>			
Type			
Diameter & Length			
<b>10. Power House</b>			
Type			
Installed capacity (No of units x MW)			
Peaking capacity during lean period (MW)			
Type of turbine			
Rated Head(M)			
Rated Discharge(Cumecs)			
<b>11. Tail Race Tunnel</b>			

Diameter, shape			
Length			
Minimum tail water level			
<b>12. Switchyard</b>			
Type of Switch gear			
No. of generator bays			
No. of Bus coupler bays			
No. of line bays			
Note: Indicate the limitation on generation during specific time period on account of restriction(s) on water use due to irrigation, drinking water, industrial, environmental considerations etc.			

**APPENDIX 7**  
**FUEL SURCHARGE ADJUSTMENT**  
**(See Regulation 60)**

**FUEL SURCHARGE:**

1. Under Sec. 62 of the Electricity Act, 2003, the licensee may submit to the Commission an application for Fuel Surcharge in accordance with the formula prescribed by the Commission. Moreover any proposal or application in this regard after 31<sup>st</sup> of October of any year may be submitted along with the filing contemplated under Sec. 62 of the Electricity Act, 2003.
2. Within 15 days of submittal by the licensee of full particulars with reference to the aforesaid application, the Commission shall review the application and may issue an order modifying or rejecting the application, with reasons for such decision by Commission, and details of amendments required if any.
3. The licensee shall publish the Fuel Surcharge approved by the Commission in two consecutive issues of one English and one Oriya daily newspaper with circulation in the Area of Supply, for general information of the consumers, and shall make available copies of the Fuel Surcharge to the public on request, at a reasonable cost.
4. The Fuel Surcharge shall be effected only after 7 days of such publication.

**FUEL SURCHARGE FORMULA FOR DISTRIBUTION AND RETAIL SUPPLY  
LICENSEES**

In pursuance of Sub- Section 62 (4) of the Electricity Act, 2003, the Fuel Surcharge formula is specified below to insulate the licensee from the risk of increase in the power purchase costs solely due to increase in price of fuel and fuel related cost. The provision will enable the licensee to recover variations in the cost of power due to variation in fuel price.

5. The formula reflects the following principles:
  - i) The base (volume of power purchase) on which fuel price adjustment will be considered will be the same as approved by the Commission. This implies that the fuel price adjustment on any excess power purchased, either due to sale or

T&D loss being actually higher than allowed by the Commission, will not be recoverable.

- ii) Borrowing of funds for working capital needed during the time lag between increased cost of fuel in power purchase and recovery of the increased cost from the consumers must be prudent in terms of interest liability.
- iii) There must be a floor below which changes in fuel cost will not be passed through till the accumulated variation has exceeded this floor. This is necessary to avoid frequent changes in the price paid by consumers.
- iv) There must be a ceiling above which changes in power purchase cost will not be immediately passed through to the consumers but instead will be temporarily adjusted by the licensee against its own cash flow and passed through with interest at a later date to the consumers.

#### 6. **Formula for Fuel Surcharge :**

The adjustment on account of fuel price, including the interest costs shall be according to the following formula.

$$\text{Fuel Surcharge (A)} = C + \frac{I}{Q_s}$$

If  $5\% < A < 25\%$  of CC

A = 0, if  $A < 5\%$  of CC, the increase to be accumulated till the next adjustment.

A =  $0.25 * CC$ , if  $A > 25\%$  of CC, the rest to be accumulated till the next adjustment.

Where

A = Fuel surcharge per unit of sale (Paise per unit)

C = Additional fuel related cost in paise per unit.

$Q_t$  = Sale approved by the OERC

$Q_s$  = The total actual sales of the licensee to consumers.

N = 1 to k, the total number of power sources.

I = Interest cost on additional power cost borne by the licensee and approved by the OERC.

CC = The average current cost of supply in Rs. Per kWh =  $TC/Q_t$

TC = The cost of supply including return on equity as approved by the Commission.

Additional Fuel Related Cost (C) =

$$\frac{\sum P_{bn} Q_n - \sum P_n Q_n}{Q_s}$$

$P_{bn}$  = Actual fuel related cost component in the price paid by the licensee for bulk purchase of power. (Paise / Kwh)

$P_n$  = Component of fuel related cost in the price as approved by OERC for bulk purchase of power. (Paise/Kwh)

$Q_n$  = Quantity of power to be bought from each station as approved by the OERC

$Q_t$  = The sales approved by the OERC in million units

$Q_s$  = The total actual sales

- **Interest Cost**

$$I = (C * Q_s)rT/12$$

Where

$T$  = the smaller of  $T_{rm}$  and  $T_{rp}$

$T_{rm}$  = time difference between the date of recovery of  $C$  from consumers and the date on which  $C$ , is measurable in months.

$T_{rp}$  = time difference in months between the date of recovery of  $C$  and the date of payment by the licensee to TRANSCO.

$r$  = average rate per annum of short term borrowing for the licensees for preceding year, in percent.

## 7. Recovery from consumers

The burden of permissible additional fuel related cost will be borne by all consumers, in the form of fuel surcharge, in proportion to the energy consumed by them (paise/Kwh). The current practice where only industrial consumers, railway traction, public waterworks and general-purpose consumers bear this cost has been changed. The change to a more non-discriminatory sharing of this burden is accepted on the basis that all consumers should at least bear their share of the increase in the average variable cost of power supply.

### FUEL SURCHARGE FORMULA FOR BULK SUPPLY LICENSEE

In pursuance of Sub- Section 62 (4) of the Electricity Act, 2003, the Fuel Surcharge formula is specified below to insulate the licensee from the risk of increase in the power purchase costs solely



due to increase in price of fuel and fuel related cost. The provision will enable the licensee to recover variations in the cost of power due to variation in fuel price.

8. The formula reflects the following principles:

- i) The base (volume of power purchase) on which fuel price adjustment will be considered will be the same as approved by the Commission. This implies that the fuel price adjustment on any excess power purchased, either due to sale or T&D loss being actually higher than allowed by the Commission, will not be recoverable.
- ii) Borrowing of funds for working capital needed during the time lag between increased cost of fuel in power purchase and recovery of the increased cost from the consumers must be prudent in terms of interest liability.
- iii) There must be a floor below which changes in fuel cost will not be passed through till the accumulated variation has exceeded this floor. This is necessary to avoid frequent changes in the price paid by consumers.
- iv) There must be a ceiling above which changes in power purchase cost will not be immediately passed through to the consumers but instead will be temporarily adjusted by the licensee against its own cash flow and passed through with interest at a later date to the consumers.

9. Formula for Fuel Surcharge :

The adjustment on account of fuel price, including the interest costs shall be according to the following formula.

$$\text{Fuel Surcharge (A)} = C + \frac{I}{Q_s}$$

If  $5\% < A < 25\%$  of CC

A = 0, if  $A < 5\%$  of CC, the increase to be accumulated till the next adjustment.

A =  $0.25 * CC$ , if  $A > 25\%$  of CC, the rest to be accumulated till the next adjustment.

Where

A = Fuel surcharge per unit of sale (Paise per unit)

C = Additional fuel related cost in paise per unit.

$Q_t$  = Sale approved by the OERC

$Q_s$  = The total actual sales of the licensee to consumers.

$N = 1$  to  $k$ , the total number of power sources.

$I$  = Interest cost on additional power cost borne by the licensee and approved by the OERC.

$CC$  = The average current cost of supply in Rs.Per kWh =  $TC/Q_t$

$TC$  = The cost of supply including return on equity as approved by the Commission.

Additional Fuel Related Cost (C) =

$$\frac{\sum P_{bn} Q_n - \sum P_n Q_n}{Q_s}$$

$P_{bn}$  = Actual fuel related cost component in the price paid by the licensee for bulk purchase of power from different power stations. (Paise/Kwh)

$P_n$  = Component of fuel related cost in the price as approved by OERC for bulk purchase of power. (Paise/Kwh)

$Q_n$  = Quantity of power to be bought from each station as approved by the OERC

$Q_t$  = The sales approved by the OERC in million units

$Q_s$  = The total actual sales

- **Interest Cost**

$$I = (C * Q_s)rT/12$$

Where

$T$  = the smaller of  $T_{rm}$  and  $T_{rp}$

$T_{rm}$  = time difference between the date of recovery of C from DISTCOs and the date on which C, is measurable in months.

$T_{rp}$  = time difference in months between the date of recovery of C and the date of payment by the licensee to generators.

$r$  = average rate per annum of short term borrowing for the licensees for preceding year, in percent.

**APPENDIX 8**  
**INFORMATION TO BE MAINTAINED BY THE LICENSEE AND THE GENERATING**  
**COMPANY**  
**(See Regulation 64)**

<b><u>Information/Documents to be maintained by the Generating Company and Transmission Licensees</u></b>	
<b>Sl.No.</b>	<b>Documents</b>
<b>1</b>	Plant Characteristics
<b>2</b>	Details of Foreign loans
<b>3</b>	Abstract of Admitted Capital Cost for the existing Projects
<b>4</b>	Abstract of Capital Cost Estimates and Schedule of Commissioning for the New projects
<b>5</b>	Break-up of Capital Cost for Coal/Lignite based projects
<b>6</b>	Break-up of Capital Cost for Gas/Liquid fuel based Projects
<b>7</b>	Break-up of Construction/Supply/Service packages
<b>8</b>	Financial Package up to COD
<b>9</b>	Details of Project Specific Loans
<b>10</b>	Details of Allocation of corporate loans to various projects
<b>11</b>	Statement of Additional Capitalisation after COD
<b>12</b>	Financing of Additional Capitalisation
<b>13</b>	Statement of Depreciation
<b>14</b>	Calculation of Depreciation Rate
<b>15</b>	Calculation of Interest on Actual Loans <sup>1</sup>
<b>16</b>	Calculation of Advance Against Depreciation (AAD)
<b>17</b>	Calculation of Interest on Working Capital
<b>18</b>	Draw Down Schedule for Calculation of IDC & Financing Charges
<b>19</b>	Details/Information to be Submitted in respect of Fuel for Computation of Energy Charges <sup>1</sup>
<b>Other Information/ Documents</b>	
<b>Sl. No.</b>	<b>Information/Document</b>
<b>1</b>	Certificate of incorporation, Certificate for Commencement of Business, Memorandum of Association, & Articles of Association ( For New Station setup by a company making tariff application for the first time to OERC)
<b>2</b>	Station wise and Corporate audited Balance Sheet and Profit & Loss Accounts with all the Schedules & annexures on COD of the Station for the new station & for the relevant years.
<b>3</b>	Copies of relevant loan Agreements

<b>4</b>	Copies of the approval of Competent Authority for the Capital Cost and Financial package.
<b>5</b>	Copies of the Equity participation agreements and necessary approval for the foreign equity.
<b>6</b>	Copies of the BPSA/PPA with the beneficiaries, if any
<b>7</b>	Detailed note giving reasons of time and cost over run, if applicable.
<b>8</b>	Any other relevant information, (Please specify)
<b>Note: Electronic copy in the form of CD/Floppy disc shall also be furnished.</b>	

**APPENDIX-8A**  
**INFORMATION/DOCUMENTS TO BE MAINTAINED BY DISTCOs**

<b><u>Sl.No.</u></b>	<b><u>SUBJECT</u></b>
1	Consumer Commercial Information
2	Information on Block Capital
3	Subsidy and Grants
4	Balance Sheet
5	Profit & Loss Account

**Note:** Detailed formats in respect of aforesaid items will be provided by the Commission to the Licensees/Generating companies from time to time.

## APPENDIX 9

### Applicability of provisions of Indian Penal Code and Criminal Procedure Code

#### (See Regulation 69)

(i) **Section 193. (of Indian Penal Code)**

**Punishment for false evidence:-**

Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

And whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**Explanation 1.** A trial before a Court-martial is a judicial proceeding.

**Explanation 2.** An investigation directed by law preliminary to a proceeding before a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

(ii) **Section 219. (of Indian Penal Code)**

**Public servant in judicial proceeding corruptly making report, etc., contrary to law:-**

Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

(iii) **Section 228. (of Indian Penal Code)**

**Intentional insult or interruption to public servant sitting in judicial proceeding:-**

Whoever intentionally offers any insult, or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(iv) **Section 345. (of Code of Criminal Procedure)**

**Procedure in certain cases of contempt:-**

(a) When any such offence as is described in Section 175, Section 178, Section 179, Section 180 or Section 228 of the Indian Penal Code (45 of 1860) is committed in the view or presence of any civil, criminal or revenue Court, the Court may cause the offender to be detained in custody and may, at any time before the rising of the Court on

the same day, take cognizance of the offence and, after giving the offender a reasonable opportunity of showing cause why the should not be punished under this Section, sentence the offender to fine not exceeding two hundred rupees, and, in default of payment of fine, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid.

(b) In every such case the Commission shall record the facts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

(c) If the offence is under Section 228 of the Indian Penal Code (45 of 1860), the record shall show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult.

(v) **Section 346. (of Code of Criminal Procedure)**

**Procedure where Court considers that case should not be dealt with under Section 345:-**

(a) If the Court in any case considers that a person accused of any of the offences referred to in Section 345 and committed in its view of presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under Section 345, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such person before such Magistrate, or if sufficient security is not given shall forward such person in custody to such Magistrate.

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